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QUESTION OF ANTARCTICA

State of the environment in Antarctica

Report of the Secretary-General

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I. INTRODUCTION

1. In its resolution 46/41 A of 6 December 1991, the General Assembly requested, inter alia, the Secretary-General to monitor and gather information within existing resources on the state of the environment in Antarctica and to submit an annual report to the Assembly.

2. Accordingly, the Secretary-General, in pursuance of paragraph 2 of resolution 46/41 A, addressed a note verbale on 28 February 1992 to Member States, requesting them to submit not later than 30 May 1992 any pertinent information they were prepared to make available. Letters were also sent to the Antarctic Treaty Consultative Parties, drawing further attention to the requests specified in resolution 46/41 A.

3. In addition, letters were sent to relevant specialized agencies, programmes, organs, organizations and bodies of the United Nations system and to relevant intergovernmental and non-governmental bodies inviting them to submit their comments not later than 30 May 1992.

4. As at 1 November 1992, replies from three Member States, including one (Germany) acting on behalf of the States Parties to the Antarctic Treaty, were received with reference to the requests in resolution 46/41 A in line with the procedure utilized on a similar report submitted to the last session of the General Assembly (see annex). In this connection, helpful data have also been received from the following organizations: United Nations Educational, Scientific and Cultural Organization (UNESCO), Food and Agriculture Organization of the United Nations (FAO), International Hydrographic Organization (IHO), International Civil Aviation Organization (ICAO), International Whaling Commission (IWC), International Maritime Organization (IMO), Intergovernmental Oceanographic Commission (IOC), United Nations Environment Programme (UNEP), World Health Organization (WHO), World Meteorological Organization (WMO), Fridtjof Nansen Institute, National Science Foundation and World Resources Institute. These replies have been taken into account in the preparation of the present report.

5. It should be noted that many aspects of the environmental issues addressed in the report have been dealt with at length in the Secretary-General's reports on the question of Antarctica submitted to the General Assembly at its thirty-ninth session (A/39/583), forty-first session (A/41/722) and forty-sixth session (A/46/590). Those documents may be used as reference points.

II. ANTARCTICA'S ROLE IN THE GLOBAL ENVIRONMENTAL SYSTEM

6. As noted in the Secretary-General's report of 1991 (A/46/590), Antarctica plays an important role in the global environmental system by acting, among other things, as one of Earth's "refrigerators". Clearly, this affects global weather patterns, atmospheric conditions and ocean circulation. The formation

of an Antarctic ice-sheet and the associated cooling process have profoundly affected global climate patterns and the development of marine and terrestrial biota. At the same time, the ice-sheet has proven to be an important repository of detailed records of past global climatic and atmospheric make-up, covering hundreds of millennia. It should also be noted that this ice-sheet contains enough water to raise world-wide sealevels by up to 60 metres, were it all to melt. 1/

7. South polar waters also have a particularly important role in the exchange of carbon dioxide (CO_2) between the ocean and the atmosphere. Reportedly, these processes are affected by sea-ice formations, thermohaline convection and biological productivity. 1/

8. Although the Antarctic Circumpolar Ocean has wide connections with the three major oceans, there is a marked physical delineation between them, with cold northward-flowing Antarctic surface water that meets southward-flowing warmer waters from lower latitudes at the so-called Antarctic Convergence. At deeper levels there are northward-flowing, intermediate and deep water currents and a warm deep current going south between them. This means a relatively marked isolation of the Antarctic Ocean at the surface and bottom levels, which is also marked by a strong endemic component in the marine biota. Another example of the isolation is that only two species of vascular plants have been able to establish themselves firmly on the Antarctic Peninsula, although the climatic conditions on land are contributing factors to this. 2/

9. The most obvious human influence on the Antarctic environment is through direct activities in the area itself, for example, hunting, pollution and debris from research stations and ships. In contrast to the Arctic, there is virtually no river runoff that could transport material into the surrounding ocean in the Antarctic. The only transport is by ice floe and the melting of glaciers and shelf ice. Sea ice, which covers extensive areas, does not contribute to that transport. 3/

10. Human activities have already had a major effect on the balance of the Antarctic marine ecosystem. Moreover, commercial exploitation of mineral resources might have a more profound impact on the ecosystem and lead to irreversible damage. The achievements within the Antarctic Treaty System and the Convention on the Conservation of Marine Living Resources (CCAMLR) are of great importance for the future of the Antarctic marine environment. 3/

11. Scientific studies have suggested that ozone depletion over the Antarctic region threatens life in the region more quickly than in other parts of the world. Recent reports from UNEP 4/ indicate that increased levels of ultraviolet radiation in the Antarctic have been shown to have a detrimental effect on the productivity of flora and fauna. In addition, those studies reveal that certain phytoplankton species have been adversely affected. Thus, there is a probability that other species in the vast Antarctic food chain may have been affected as well. Various ongoing scientific studies, including some conducted from orbiting satellites, are being pursued to examine the

effects of global pollution on the Earth's ozone layers. Those studies also take note of Antarctica's marked remoteness from anthropogenic emissions in the atmosphere and within the oceans, and highlight its enhanced potential for forecasting climate changes at high latitudes. 5/

III. PROTECTION OF THE ANTARCTIC ENVIRONMENT

12. As noted above, Antarctica offers several opportunities for detecting changes in the Earth's atmospheric systems and for assessing the impact of pollutants of global ecosystems. In that connection, a recent document published by the Scientific Committee on Antarctic Research (SCAR), entitled "Environmental monitoring in Antarctica" (May 1992), noted that, owing to the increasingly fragile nature of Antarctic ecosystems, there is a growing need for comprehensive environmental monitoring. SCAR's report further highlighted articles 3.2.d and 3.2.e of the new Protocol on Environmental Protection to the Antarctic Treaty, which calls for regular and effective monitoring of the impact of various activities there. Those articles envisage the assessment, verification and early detection of the predictable activities as well as the unforeseen effects of certain activities carried on within or outside the Antarctic Treaty area, and/or in Antarctic-dependent and associated ecosystems. The same matter was addressed in Antarctic Treaty Consultative Meeting recommendation XV-5. 6/ The recommendation specifies, inter alia, monitoring programmes relevant to activities such as:

(a) Waste disposal;

(b) Contamination by oil or other hazardous or toxic substances;

(c) Construction and operation of stations, field camps and related ship, aircraft and other logistic support facilities;

(d) Conduct of science programmes;

(e) Recreational activities;

(f) Those affecting the purposes of designated protected areas.

13. Recommendations made by the Antarctic Treaty Consultative Meeting also call for a meeting of experts to consider and provide additional information on these matters in pursuance of the following objectives:

(a) To utilize international monitoring as a means of obtaining a regular and verifiable record of activities and data necessary to:

(i) Study the impact of various activities and provide early warning of negative impacts;

(ii) Identify preventive or remedial measures needed to reduce or eliminate adverse impacts;

(b) Other topics to be addressed:

(i) Identification of methodologies and technologies available for monitoring (especially inexpensive and automated systems);

(ii) Identification of steps needed to create national and cooperative data systems that would provide for collection, quality control, archiving, evaluation, exchange and retrieval of environmental data.

14. Documentation received from SCAR in 1992 indicates that environmental monitoring remains a fundamental element of Antarctic research, environmental management and conservation. Furthermore, the systematic measurement of selected variables provides valuable insight as regards the effects of natural phenomena and human activities. The monitoring of such data is also important for the development of scientific models needed to assess various environmental processes. Concrete steps need to be taken to safeguard both Antarctic and global environmental systems from the effects of global warming.

15. SCAR also noted a lack of global environmental databases with respect to the Antarctic, despite the fact that many concerned non-governmental organizations and individuals had access to important and relevant data. Clearly, there is a need to better coordinate and exchange existing information affecting Antarctic studies.

16. It is also significant that while some environmental monitoring has already been undertaken by various operators in the Antarctic, there seems to be a lack of standard protocols. This renders it difficult readily to synthesize data from different research groups. In this connection, SCAR has proposed, inter alia, that countries engaging in monitoring activities in the Antarctic should consider how best to implement the following:

(a) Reaching international agreement on a future data collection and analysis protocol with respect to various scientific endeavours;

(b) Organizing and coordinating any inter-laboratory calibration schemes and providing international standards as required;

(c) Making such data readily available to the scientific community at large;

(d) Providing a summary of any such data, including an evaluation of the environmental consequences to concerned interested parties.

IV. CONCLUDING REMARKS

17. While mankind is only at the dawn of fully understanding the totality of Antarctic ecosystems, it is evident that the interplay among these systems is of prime importance to the global environment. The inaccessibility of Antarctica, the cost of scientific research and other factors amply

demonstrate the need for international cooperation in order to safeguard Antarctica and its dependent ecosystems for future generations. It is encouraging that the last 30 years of scientific research in the Antarctic have produced some very important data on the current state of the environment. In this regard, the importance of the discovery of the ozone hold over the Antarctic and the potential ill effects of "greenhouse gasses" cannot be overemphasized.

18. It is also noteworthy that the significance of Antarctica in a global context was recognized at the recently held United Nations Conference on Environment and Development - the Earth Summit - held at Rio de Janeiro in June 1992. In this respect, Agenda 21, adopted at the Conference, states in part:

> "In recognition of the value of Antarctica as an area for the conduct of scientific research, in particular research essential to understanding the global environment, States carrying out such research activities in Antarctica should, as provided for in article III of the Antarctic Treaty, continue to:
>
> (a) Ensure that data and information resulting from such research should be freely available to the international community;
>
> (b) Enhance access of the international scientific community and specialized agencies of the United Nations to such data and information, including the encouragement of periodic seminars and symposia."

Notes

1/ Report to the United Nations from the Scientific Committee on Antarctic Research on the state of the environment in Antarctica, p. 4.

2/ UNEP Regional Seas Reports and Studies No. 129.

3/ Ibid., p. 1.

4/ UNEP letter, 22 June 1992.

5/ Ibid., p. 1

6/ Final report of Sixteenth Antarctic Treaty Consultative Meeting, 7-18 October 1991.

ANNEX

Replies from Governments

ANTIGUA AND BARBUDA

[Original: English]

[25 March 1992]

With respect to paragraph 2 of General Assembly resolution 46/41 A, the lack of a physical presence on Antarctica prevents the Government of Antigua and Barbuda from monitoring and gathering information on the state of the environment in Antarctica; with respect to paragraph 8, the Government of Antigua and Barbuda, through its active participation in the ongoing debate on Antarctica, in its annual statement to the General Assembly of the United Nations and through its local media, continues to "promote public awareness of the importance of Antarctica to the ecosystem".

GERMANY*

[Original: English]

[29 May 1992]

1. The General Assembly resolution refers to the significant impact that Antarctica exerts on the global environment and ecosystems. The Parties to the Antarctic Treaty are aware of the need for concerted international action to protect the Antarctic environment from external environmental disturbances that could accelerate serious global environmental change. As the countries active in the region, they have developed measures, and will continue to develop measures, to protect the fragile Antarctic environment from the impact of the limited human activity within the region. Evidence of this concern is shown by the adoption and signature of the Environmental Protocol in October 1991, which is recognized in the General Assembly resolution, and the further work since then to extend the scope of the Protocol. The Protocol, which is an integral part of the Antarctic Treaty, designates Antarctica as a natural reserve devoted to peace and science in recognition of the continent's global importance. It establishes a comprehensive, legally binding regime to ensure that activities undertaken by Parties in Antarctica are consistent with the protection of the Antarctic environment and its dependent and associated ecosystems.

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* On behalf of the States Parties to the Antarctic Treaty.

2. Given the indispensable contribution of Antarctic scientific research to the global effort to predict and understand climate change, the Parties to the Antarctic Treaty will also continue to make freely available the results of their Antarctic research bearing upon the global environment as well as on all other subjects. Any State can participate in this work by acceding to the Antarctic Treaty.

3. It may be recalled also that during the fourth meeting of the Preparatory Committee of the United Nations Conference on Environment and Development in March 1992 an agreement was reached on the wording concerning Antarctica in the oceans paper of Agenda 21, section E, addressing the critical uncertainties for the management of the marine environment and climate change. This will be presented to the Rio Conference for its approval. The text reads as follows:

> "In recognition of the value of Antarctica as an area for the conduct of scientific research, in particular research essential to understanding the global environment, States carrying out such research activities in Antarctica should, as provided for in article III of the Antarctic Treaty, continue to:
>
> "(a) Ensure that data and information resulting from such research is freely available to the international community;
>
> "(b) Enhance access of the international scientific community and specialized agencies of the United Nations to such data and information, including the encouragement of periodic seminars and symposia."

4. In the context of the distribution of information the Permanent Representative of Germany has the honour to refer to the final report of the Sixteenth Antarctica Treaty Consultative Meeting, held at Bonn from 7 to 18 October 1991. Immediately after publication, two English-language copies of that report were sent to the Secretary-General of the United Nations, together with verbal note No. 231 of 8 May 1992.

5. The Permanent Representative of Germany has the honour to refer to his statement made on behalf of all States Parties to the Antarctic Treaty in the plenary session at the forty-sixth session of the United Nations General Assembly on 18 November 1991. The statement, inter alia, expressed the opinion of the Treaty Parties that consensus is the only constructive basis for considering Antarctic issues, and that the General Assembly in considering the question of Antarctica should therefore return to consensus. That remains the conviction of the Parties to the Antarctic Treaty.

PANAMA

[Original: Spanish]

[29 July 1992]

1. The Republic of Panama, being a State respectful of the international treaties on demilitarization and on the preservation of species and the protection of the environment, declares its support for any study concerning the question of Antarctica. Panama supports the idea of establishing Antarctica as a natural preserve or world park to ensure the protection and preservation of its environment and dependent and associated ecosystems for the benefit of all mankind.

2. Also, it suggests that any initiative relating to the drafting of an international convention should be conducted with the full participation of the international community. Furthermore, it recognizes the need to establish internationally coordinated scientific research stations in Antarctica with a view to reducing logistical support installations to a minimum.

3. The Government of Panama maintains its position in favour of keeping Antarctica as a neutral zone characterized by the broadest international cooperation.

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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Cuba

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on the situation of human rights in Cuba prepared by Ambassador Carl-Johan Groth (Sweden), Special Rapporteur of the Commission on Human Rights, in accordance with paragraph 9 of Commission resolution 1992/61 of 3 March 1992 and Economic and Social Council decision 1992/236 of 20 July 1992.

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ANNEX

Interim report on the situation of human rights in Cuba prepared by the Special Rapporteur of the Commission on Human Rights in accordance with Commission resolution 1992/61 and Economic and Social Council decision 1992/236

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I. INTRODUCTION

1. During its forty-eighth session, the Commission on Human Rights had before it the report on the situation of human rights in Cuba prepared by the Special Representative of the Secretary-General, Mr. Rafael Rivas Posada, pursuant to the mandate conferred by Commission resolution 1991/68 (E/CN.4/1992/27). a/ At the same session the Commission adopted resolution 1992/61 of 3 March 1992 entitled "Situation of human rights in Cuba". In paragraph 6 of that resolution, the Commission requested its Chairman to designate the Special Representative as its Special Rapporteur to review and report on the situation of human rights in Cuba. In paragraph 9 of the resolution, the Commission requested the Special Rapporteur to carry out his mandate, bearing in mind the Universal Declaration of Human Rights, and to report to the Commission at its forty-ninth session on the results of his endeavours under the same agenda item, and to submit an interim report to the General Assembly at its forty-seventh session.

2. In a letter dated 18 March 1992, the Special Representative, Mr. Rivas Posada, informed the Centre for Human Rights in Geneva of his decision not to accept the designation of special rapporteur given to him in the above-mentioned resolution.

3. In a letter dated 10 April 1992, the Chairman of the Commission on Human Rights at its forty-eighth session informed the Under-Secretary-General for Human Rights that, as Mr. Rivas Posada was no longer able to continue his mandate, the designation of a special rapporteur could not be accomplished until another person had been designated to replace Mr. Rivas Posada. The Chairman of the Commission therefore invited the Secretary-General to appoint a special representative who would subsequently be designated as the Commission's special rapporteur. In the same letter the Chairman, at the request of the Bureau of the Commission, requested legal advice on the interpretation of paragraph 6 of Commission resolution 1992/61.

4. In a note verbale dated 27 April 1992 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General (see appendix I), and a note dated 4 May 1992 from the Permanent Mission to the United Nations Office at Geneva, addressed to the Under-Secretary-General for Human Rights, the Government of Cuba, in the light of the decision taken by Mr. Rivas Posada, transmitted its legal interpretation of resolution 1992/61 and of paragraph 6 in particular. The second note verbale stated, inter alia:

> "... the Chairman of the Commission at its forty-eighth session has no mandate to take it upon himself to designate another person other than Mr. Rafael Rivas Posada as Special Rapporteur ... since the wording of operative paragraph 6 is clear, precise and does not allow for the designation of another person ...

"Similarly, the Secretary-General of the United Nations lacks the power to designate another Special Rapporteur to replace Mr. Rafael Rivas Posada since ... this is not a case of the Special Rapporteur having relinquished his functions or died; quite the contrary, Mr. Rivas Posada, Special Representative, took up and completed the mandate conferred under [Commission] resolution 1991/68 and [Economic and Social Council] decision 1991/252; he did not accept the designation of Special Rapporteur given to him in operative paragraph 6 of resolution 1992/61.

"For all the foregoing reasons, it would be necessary to wait until the forty-ninth session of the Commission before considering this issue, since a specific decision from the Commission is needed in order to amend the wording of operative paragraph 6 of resolution 1992/61 ..."

5. On 30 April 1992 the Under-Secretary-General for Legal Affairs transmitted to the Under-Secretary-General for Human Rights the requested legal opinion (see appendix II), which read, in part, as follows:

"Nothing in the resolution indicates that its object and purpose is limited to Mr. Rivas Posada. It does not refer to him by name. No provision of any of the relevant Commission decisions of which we are aware refers by name to the individual who had been designated 'Special Representative'. It is the usual practice in the United Nations to consider 'Special Representatives' or 'Special Rapporteurs' as organs of the body establishing them, in this case the Commission on Human Rights. Absent a different intention expressed by the body establishing the post, the resignation or death of the person holding the post does not, in and of itself, end the mandate. Rather, a new appointment is normally made so that work can continue in fulfillment of the particular mandate, usually in the same manner as prescribed for the initial appointment."

6. The Economic and Social Council, in its decision 1992/236 of 20 July 1992, approved the requests contained in Commission resolution 1992/61.

7. On the basis of the foregoing, the Secretary-General decided to appoint Mr. Carl-Johan Groth, of Swedish nationality, as his Special Representative for Cuba replacing Mr. Rivas Posada and, on 31 August 1992, the Chairman of the Commission designated Mr. Groth as Special Rapporteur.

8. This interim report contains an account of the activities undertaken by the Special Rapporteur during the brief period which has elapsed since his appointment, and a preliminary analysis of the most pressing problems which Cuba faces at present in the field of human rights, in so far as the Special Rapporteur was able to assess them in the light of the information received. The Special Rapporteur transmitted an advance copy to the Government of Cuba on 5 November 1992.

II. ACTIVITIES OF THE SPECIAL RAPPORTEUR

9. Pursuant to the mandate conferred on him, the Special Rapporteur took into consideration information from a wide variety of sources and expressed his willingness to receive any person or group wishing to meet him. For that purpose, he travelled to New York from 28 to 30 September 1992, where he had the opportunity to meet individuals and representatives of the following organizations and groups active on the subject of human rights in Cuba and operating in the United States of America, mainly in New York and Miami: the Cuban Committee for Human Rights, the Committee to Support the Human Rights Movement in Cuba, the Centre for Human Rights, the Coordinating Body for Human Rights Organizations in Cuba (CODEHU), the World Federation of Former Cuban Political Prisoners, the Cuban Democratic Coalition, the Partido Demócrata Cristiano de Cuba (Cuban Christian Democratic Party), Freedom House, the Valladares Foundation and Americas Watch. The Special Rapporteur also travelled, on 13 and 14 October 1992, to Madrid, where he had occasion to meet Cuban citizens in exile and representatives of the Cuban Committee for Human Rights in Spain and the Association for Continental Peace (ASOPAZCO). In addition to those mentioned, other organizations, such as the Information Bureau of the Cuban Human Rights Movement, based in Miami, and Amnesty International (International Secretariat), provided the Special Rapporteur with valuable information.

10. Like his predecessor in the role of Special Representative of the Secretary-General, the Special Rapporteur endeavoured, without any positive results to date, to maintain, pursuant to resolution 1992/61, direct contact with the Cuban authorities, which he believes to be of crucial importance for him to carry out his mandate in the most effective manner. The Cuban Government's negative attitude to the provisions of resolution 1992/61 was re-emphasized in the statement made by its representative during the consideration by the Economic and Social Council of its agenda item 17 entitled "Human rights questions". Nevertheless, the Special Rapporteur continues to hope that this attitude will change. The Special Rapporteur had at his disposal the replies provided by the Government to communications which had been transmitted to it under other thematic procedures established by the Commission on Human Rights. The content of these replies has not been reflected in this report because the various rapporteurs and working groups have not yet made them public, but they will be reflected in the report to be submitted by the Special Rapporteur to the Commission on Human Rights at its forty-ninth session.

III. FREEDOM OF OPINION, EXPRESSION AND ASSOCIATION

11. Much of the information received by the Special Rapporteur from individuals and non-governmental groups has to do with the persecution to which persons linked to groups which have as their objective the condemnation of human rights violations, or which are critical of the current political system, are subjected. Although the actions of these groups are completely peaceful, and are even addressed, in a respectful manner, directly to the

authorities, their members are continually subject to harassment and persecution. This attitude on the part of the authorities would appear to have its legal basis in article 61 of the Constitution of 1976, which states that "None of the freedoms granted to citizens can be exercised in a manner contrary to the provisions of the Constitution and the laws, or to the existence and purposes of the socialist State, or to the decision of the Cuban people to build socialism and communism. Violations of this principle are punishable."

12. The Special Rapporteur has examined the complaints received in the light of the following provisions of the Universal Declaration of Human Rights:

"Article 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

"Article 20(1): Everyone has the right to freedom of peaceful assembly and association."

13. The Special Rapporteur also took into account Commission on Human Rights resolution 1992/22 entitled "Right to freedom of opinion and expression", adopted on 28 February 1992. In that resolution, the Commission referred to the link between violations of the right to freedom of opinion and expression and violations of other fundamental rights, such as the rights to liberty, security, life, privacy, peaceful assembly, protection against torture, and freedom of movement and religion; considered that the effective promotion of the human rights of persons who exercised the right to freedom of opinion and expression was of fundamental importance to the safeguarding of human dignity; appealed to all States to ensure respect and support for the rights of all persons who exercised the rights to freedom of opinion and expression and the rights to freedom of thought, conscience and religion, peaceful assembly and association, and the right to take part in the conduct of public affairs, or who sought to promote and defend those rights and freedoms and, where any persons had been detained solely for exercising those rights as laid down in the International Covenant on Civil and Political Rights, to release them immediately; also appealed to all States to ensure that persons seeking to exercise those rights and freedoms were not discriminated against, particularly in such areas as employment, housing and social services, or harassed; and invited the Special Rapporteurs to pay particular attention, within the framework of their mandates, to the situation of persons detained, ill-treated or discriminated against for having exercised the right to freedom of opinion and expression.

14. It should be pointed out that none of the human rights groups referred to in the present report has been able to acquire legal status since, so far as could be ascertained, the numerous applications to the Ministry of Justice for legal status under the Associations Act are consistently unanswered. b/

15. On the freedom of association, the Group which visited Cuba pursuant to Commission on Human Rights decision 1988/106 asked the Government the following questions c/ which the Special Rapporteur considers to be still valid and relevant: "May the rights of assembly, expression and association (Constitution, art. 53) be exercised solely through the social organizations and mass organizations recognized, protected and promoted by the State (Constitution, art. 7)? If an organization's application for registration is rejected, what options remain open for persons who wish to exercise their right to associate freely? Are any judicial remedies available? What are the criteria used to approve or reject an application for association? Might this provision limit the options of association, especially political options, and therefore of assembly and expression of persons who do not wish to exercise their rights of association, assembly and expression necessarily through the mass social organizations recognized, protected and promoted by State? If this is the case, would the channels for political participation be reduced to those organizations which are promoted by the State, thereby eliminating the possibility of the emergence of organizations opposed to the regime?". According to the same report, the Minister of Justice stated that, three years previously, the National Assembly had adopted the Associations Act, which stipulated that associations must be registered and which set forth the requirements for their functioning. d/

16. The human rights violations referred to in this section are exacerbated by the fact that, according to the information received, the system lacks laws and institutions designed to protect fundamental rights effectively by way of the guarantees of due process set forth in the Universal Declaration of Human Rights itself and in the basic principles relating to independence of the judiciary. e/

17. As regards the extent of the human rights violations referred to in the present section, the Special Rapporteur considers worth mentioning, as an example, a document of 30 September 1992, prepared by the organization "Americas Watch", in which it is stated that more than 250 people associated with human rights groups had been held in custody since 1989. At least 49 of them had apparently been serving sentences of up to 10 years for their activities in this connection. Others were being held in custody pending trial. At least half of the total had been in custody since September 1991. Many others had remained in custody for short terms in police or State security premises.

18. The limitations on the enjoyment of those rights are indicated principally as described below.

A. Trial and sentencing

19. Information has been received on sentences for offences against the security of the State such as "enemy propaganda", "dissemination of false information against international peace" and even "rebellion", or others such as "contempt" or "illegal association", which seemed by the reporters to be extremely harsh considering the acts for which people were accused, such as painting slogan on walls, printing and distributing pro-democratic literature, organizing peaceful demonstrations, and so on.

20. The crime of rebellion is rated in articles 98 and 99 of the Penal Code as follows:

> Article 98: "1. Any person who takes up arms in order to achieve by force any of the following purposes shall be sentenced to deprivation of liberty for ten to twenty years, or to death:
>
> "(a) To prevent in whole or in part, even if temporarily, the principal organs of the State and of the Government from carrying out their functions;
>
> "(b) To change the economic, political and social regime of the socialist State;
>
> "(c) To change, in whole or in part, the Constitution or the form of government established thereby;
>
> "2. The same penalty shall apply to any person who undertakes an act designed to foster armed uprising, should such uprising occur; should such armed uprising not occur, the sentence shall be deprivation of liberty for four to ten years."
>
> Article 99: "Any person who undertakes any other act designed, directly or indirectly, to achieve a purpose indicated in the preceding article, by violence or by other illicit means, shall be sentenced to deprivation of liberty for seven to fifteen years unless the act constitutes a greater crime."

As regards the said crime, the Group which visited Cuba pursuant to decision 1988/106 of the Commission on Human Rights asked the Government the following questions: "What is meant by 'or other unlawful means'? Does it mean, for example, that members of any unregistered association that might seek partial changes in the Constitution or the economic, social or political regime in Cuba may be charged with rebellion for having used unlawful means to achieve one of the objectives set forth in article 98, paragraph 1?" f/

21. The crime of enemy propaganda is rated in article 103 of the Penal Code as follows:

> "1. A sentence of deprivation of liberty for one to eight years shall be incurred by any person who:

"(a) Incites against the social order, international solidarity or the socialist State, by means of spoken or written propaganda or in any other form;

"(b) Makes, distributes or possesses propaganda of the type mentioned in the preceding subparagraph;

"2. Any person who disseminates false information or malicious predictions such as are likely to cause alarm or unrest in the population, or public disorder, shall be sentenced to deprivation of liberty for one to four years;

"3. If mass media are used to carry out the acts referred to in the preceding paragraphs, the sentence shall be deprivation of liberty for seven to fifteen years;

"4. Any person who permits the use of mass media as referred to in the preceding paragraph shall be sentenced to deprivation of liberty for one to four years."

22. Also as regards this provision, the aforesaid Group of ambassadors visiting Cuba asked the Government the following questions: "What is meant by incitement 'against the social order, international solidarity or the socialist State'? Could this article be used to prevent the free exercise of political criticism and the control of the authorities by the people? Could it constitute a threat to persons who disagree with government policy, both in Cuba and abroad? Lastly, the fact of using the media to express opinions at variance with those of the Government constitutes, in accordance with article 103, paragraph 3, of the Penal Code, an aggravating circumstance as regards the offence defined as enemy propaganda. Would this article constitute a threat to persons who oppose the political regime in Cuba? Would this imply recognition by the criminal law of the prohibition of the use of the media to express opinions at variance with those of the Government?" With reference to the offence of causing alarm, the following questions were asked: "How is it determined when an act, because of the nature, means or occasion of its execution, 'tends to cause public alarm with the aim of creating conditions affecting the security of the State'? What is meant by 'security of the State' and by 'causing alarm'?" f/

23. In the context of the crime of disseminating false information against international peace, article 115 states that: "whoever disseminates false information with the purpose of disrupting international peace, or endangering the prestige or credit of the Cuban State, or its good relations with another State, shall be subject to a loss of liberty of between one and four years".

24. In the context of that crime, the same Group asked the following question: "On the basis of what criteria do the authorities determine the falsity of an item of information and the extent to which information which is indeed false may 'disrupt international peace' or endanger the prestige or credit of the Cuban State or its good relations with another State'?" f/

25. On the offence of disrespect, article 144 of the Penal Code states that:

> "1. Whoever threatens, slanders, defames, insults, injures, in any way outrages or offends, orally or in writing, the dignity or honour of an authority, civil servant, or his agents or assistants, in the exercise of their duties or on the occasion or account thereof, shall be subject to deprivation of liberty of three months to one year, or a fine of 100 to 300 cuotas (units of currency) or both.
>
> "2. If the action referred to in the previous paragraph is carried out with respect to the President of the Council of State, the President of the National Assembly of People's Power, to the members of the Council of State or of the Council of Ministers or the Deputies to the National Assembly of People's Power, the penalty shall be deprivation of liberty of one to three years."

26. In the context of the above provision the Group asked: "What form of political criticism might be defined as not offensive and not insulting to the political authorities? Could this article constitute an obstacle to compliance with the constitutional provision granting the people the right to control its representatives and possibly revoke their mandate?" f/

27. As has already been stated above, Americas Watch produced a list of 49 persons connected with human rights organizations or of the so-called political dissidents who have been sentenced or are being tried on the basis of one of the offences mentioned above and are in prison (see appendix III). The same organization stated, however, that the list can be considered only as partial owing to the difficulty of following-up these cases. In fact, the Special Rapporteur received information from other sources on cases which are not on the Americas Watch list.

28. By way of example, the following are brief descriptions of some cases brought to trial in the course of this year:

(a) Miguel Angel Ballester Cintas, a member of the National Council for Civil Rights in Cuba from the township of Diez de Octubre, was arrested on 31 July 1992 and taken to the State Security Department in Havana on a charge of enemy propaganda. According to the indictment, Mr. Ballester was arrested after having sent the Council of State a letter, dated 10 April 1992, in which he renounced the medals awarded to him during the campaign in Angola.

(b) Marco Antonio Abad Flamand and Jorge Crespo Díaz were arrested in late 1991 and taken, respectively, to the Combinado del Este and Guanajay prisons. They were accused on a count of enemy propaganda for having produced a documentary titled Un día cualquiera, which was shown as a try-out in Costa Rica and, according to the report of the Prosecutor's Office, repeatedly attacked the integrity of Fidel Castro, the President of the Council of State and the Council of Ministers, using epithets considered to be insulting and offensive. At the trial in October 1992, the prosecutor called for a sentence of eight years' imprisonment.

(c) Santiago Medina Corzo, a physician, was tried on 8 May 1992 at the Santa Clara Provincial Court on charges of enemy propaganda. He was sentenced to four years in prison for having put up a poster - in his Motembo clinic - calling for freedom for political prisoners.

(d) Yndamiro Restano Díaz, a member of the Cuban Human Rights and National Reconciliation Commission and Chairman of the social democratic movement Armonía (MAR), and Maria Elena Aparicio, the coordinator of MAR, were sentenced on charges of rebellion to 10 and seven years in prison, respectively, by the Havana Provincial Court. Yndamiro Restano had been arrested on 20 December 1991 in the Havana district of Vedado and had been kept for several months without legal aid and without being charged. He was subsequently transferred to the Guanajay prison. The charges were apparently based on the attempts by Mr. Restano's movement to publish a bulletin which allegedly urged civil disobedience. According to the information available, although MAR is of a distinctly pacifist nature and has, since its establishment in 1990, constantly and publicly rejected the use of violence, the prosecutor accused the defendants of recruiting followers and promoting action designed to destroy the country's existing regime, by violent means if necessary.

(e) Sebastián Arcos Bergnes, Vice-Chairman of the Cuban Committee for Human Rights, was arrested in Havana in January 1992 by officers of the State Security Department. A few days before his arrest, during the trial for terrorism, sabotage and enemy propaganda of three men who had been detained on attempting to enter the country illegally, one of the accused was reported to have given the name and address of Sebastián Arcos Bergnes, and of two other leaders of the Committee, Gustavo Arcos Bergnes and Jesús Yanes Pelletier, as persons to contact in the event of problems. The three were arrested the next day. While Gustavo Arcos and Jesús Yanes were released 24 hours later, Sebastián Arcos Bergnes remained under arrest on charges of rebellion. At the trial in early October 1992 the prosecutor called for a six-year prison sentence.

(f) Angel Gonzalez Santos was arrested after displaying a poster reading "Down with Fidel" and shouting anti-Government slogans in the streets of Guanabacoa on 19 October 1991. The prosecutor called for a seven-year prison term on charges of enemy propaganda.

(g) Eduardo Vidal Franco, a doctor of internal medicine, Jorge Vázquez Méndez, a university physics student, and Rigoberto Carcelles Ibarra, a specialist at the Academy of Sciences, all members of Movimiento Cristiano Liberación, were charged for "enemy propaganda" and sentenced at Santiago de Cuba in June 1992 to prison terms of six years (Mr. Vidal) and five years (Mr. Vázquez and Mr. Carcelles). The charges apparently related to their involvement in collecting signatures in support of a proposal for constitutional change.

(h) Omar del Pozo Marrero, Chairman of Unión Cívica Nacional, was arrested on 19 April 1992. At his trial in August 1992 on charges of revealing State security secrets (article 95 of the Penal Code), he was sentenced to 15 years in prison. Mr. del Pozo was reported to have obtained information on State Security agents who had infiltrated human rights groups.

(i) José López Quinta, a university professor, was tried on charges of enemy propaganda at the Santa Clara Provincial Court on 5 June 1992 because he had sent a letter to the Rector of the Central University stating his disagreement with government policy and the need for changes in the country. The prosecutor called for an eight-year prison term.

(j) Carlos Pérez Truebas and various other individuals linked to human rights groups in Holguín were arrested on 22 January 1992 by State Security agents. All were released some days later except Carlos Pérez Truebas, who was charged for enemy propaganda in Case No. 2 of 1992 having been found in possession of the first draft of a book containing political poems.

29. A necessary comment with respect to this list of incidents and the way that the law is applied in each case is that it is completely impossible to express views which in any way run counter to the official line, even if addressed to the authorities respectfully.

B. Threats and intimidation

30. The Special Rapporteur also received information concerning a large number of cases in which individuals had apparently been subjected to threats or intimidation by agents linked to the State Security apparatus for reasons connected with their exercise of the right to freedom of expression, opinion or association. In some cases, the threats were reported to have been made in the course of questioning carried out after such individuals were summoned to police or State Security premises. Thus, for example, 26 intellectuals were summoned to Villa Marista, the State Security headquarters, in early August 1992, where they were questioned and threatened because they had signed and sent a message to the Heads of State and Government attending the Second Ibero-American Summit which requested help in persuading the Government to recognize the existence of dissident groups, to respect the right to freedom of expression and to facilitate dialogue. A police record was established for each one of them, including a handwriting sample and a signed statement. This is also true in the case of Luis Enrique González Pérez, who was threatened in the course of questioning at a police station in Havana, at the intersection of Calle 15 and Dolores, where he was summoned on 26 May 1992. During the questioning, he was accused of being a member of Movimiento Cristiano Liberación, collecting signatures for a bill introduced to the National Assembly of People's Power in 1990 by Oswaldo Payá, the movement's national coordinator, and distributing clandestine propaganda.

31. At other times the threats are made during visits to the home or workplace of the person in question, or the persons are subjected to verbal and/or physical abuse in the street. Thus, for example, it is reported that Mr. Juan Betancourt Morejón was assaulted on 21 February 1992 by two individuals who shot at him from an unloaded pistol and threatened to kill him if he persisted in his activities as General Secretary of Partido Pro Derechos Humanos de Cuba. Mr. Betancourt subsequently went into exile. Meanwhile, it is reported that Mr. Lázaro Linares Echevarría, a member of the Cuban Human Rights and National Reconciliation Commission, was summoned on 28 July 1992 to an office of the revolution defence committees on Calle Aguila, between Puerta Cerrada and Vives in Old Havana, by a State Security officer and other representatives of government organizations, who threatened him with physical harm. This also happened in the case of Mr. Ignacio Hidalgo Gómez, a member of the Cuban Committee for Human Rights in Holguín: he was threatened by a State Security Department officer who visited him at his workplace on 13 April 1992. Subsequently, on 17 April, he was assaulted by various individuals in the street.

32. Situations similar to those described also occurred in the cases of Rolando Prats, a member of the democratic social movement; Lázaro Corp Yeras and Manuel Manrique Zulueta, members of the Steering Committee of Cuba's General Union of Workers; Laercy del Prado Maceo, a member of the Cuban Committee for Human Rights delegation from Palma Soriano; Jesús Yanes Pelletier, Vice-Chairman of the Cuban Committee for Human Rights; Lázaro Alberto Fernández Hidalgo, a delegate of the National Council for Civil Rights in Cuba from San Antonio de los Baños; and Rodolfo González González, a member of the board of the Cuban Committee for Human Rights.

33. One particular form of intimidation is that of performing so-called "acts of repudiation" or protests organized - apparently officially - by the "Rapid Response Brigades", in which a large group of individuals, some of whom are said to have been identified as members of the security forces in civilian clothing, gathers around the home of a person alleged to be involved in what are seen as counter-revolutionary activities, shouts insults and threats for several hours and does damage to property. Some members of the Communist Party are also reported to have been expelled from the party for refusing to join the Rapid Response Brigades, and students are said to have been threatened by school authorities for the same reasons. In many cases, the police are present at such acts of repudiation but do not intervene; sometimes, at the end, they proceed to arrest the individuals who are "repudiated".

34. By way of example, this sort of treatment is reported to have been applied this year to Mr. Fernando Núñez, who underwent an "act of repudiation" by a group of some 200 people in front of his home on 28 January 1992 after having sent a letter to the newspaper Granma criticizing one of its articles. It was also applied to Mr. José Luis Pujol Irizar, a member of Movimiento Apertura de la Isla (PAIS) and of the Executive Secretariat of Concertación Democrática Cubana, who was arrested on 4 March 1992 after having been subjected to an act of repudiation at his home.

35. Mr. Francisco Chaviano González, chairman of the National Council for Civil Rights in Cuba, underwent an "act of repudiation" in front of his house in Jaimanitas, Municipio Playa, Havana, on 14 July 1992. The next day, the officer in charge of the Jaimanitas sector was reported to have begun summoning a large number of young people who had come to Mr. Chaviano's assistance and to have threatened to put them on record as "dangerous". In addition, a guard was said to have been prominently mounted in front of his home for the purpose of intimidation, together with a display of posters announcing that Mr. Chaviano was changing his address.

36. The family of Luis Alberto Pita Santos, the famous Chairman of the Association for the Defence of Political Rights who is now in prison, was also the subject of an "act of repudiation" on 31 January 1992 in front of its residence in Havana. Luis Pita y Nivaldo and Jorge Daniel Pita Santos, father and brother of Luis Alberto Pita Santos, were ill-treated and a number of human rights activists (Lázaro Loreto Perea, Angel Viera, Fernando Núñez and Rafael García) who happened to be at their house at that time were arrested by officials of the Ministry of the Interior and taken to the Sixth Police Station but were released on the same day.

37. Finally, Mrs. Angela de la Coba, Chairwoman of the Committee of Independent Mothers for Granting Amnesty to Political Prisoners, was also the subject of an act of repudiation on 7 April 1992 carried out by a group of journalists in addition to being frequently harassed together with other members of her Committee.

38. Incidents such as those described above suggest that, apart from the cases which are mentioned in the preceding section and are more striking because heavy prison sentences are handed down, the authorities also appear to be implementing a deliberate policy to intimidate human rights activists by methods that are unacceptable in any society where the rule of law holds sway.

C. Temporary detentions

39. The Special Rapporteur also received case reports on persons who, for exercising the rights of opinion, expression or association, had been held in custody for a few hours or a few days, interrogated and later released without any charges. Undoubtedly, in these cases the aim was to intimidate the detainees. For the duration of their detention, detainees are often kept incommunicado: they are not allowed to contact their families (who do not know their whereabouts) or to have access to legal counsel. In some cases, such persons are forced to sign, before their release, so-called "official warnings" provided for under article 75 of the Penal Code, as follows:

> "1. Persons who ... as a result of their links or relations with persons who constitute a potential threat to society, to other persons and to the social, economic and political order of the socialist State, may have a proclivity to crime, shall be officially warned by the relevant police authorities against engaging in socially dangerous or criminal activities.

"2. In any case, the warning shall formally state the reasons why it was given and what the person warned has to say, and it shall be signed by both that person and the official concerned."

40. The following cases are some of those of which the Special Rapporteur has taken cognizance:

(a) Lorenzo García, an activist of the Cuban Committee for Human Rights of Holguín, was arrested by State Security officials in the centre of Holguín in the course of his investigations into the arrest on 25 June 1992 of a number of youths. He was taken to the First Police Station and interrogated for four hours by a State Security official who tried to make him sign a warning.

(b) María Valdés Rosado, President of the Cuban Christian Democrat Movement, was arrested on 23 September 1992 and taken to the State Security building at Calles Aldavoz and Cien where she underwent an interrogation and was threatened before being released two days later. Since May 1992, she has been harassed by State Security forces and her telephone conversations have been continuously tapped.

(c) Pedro Luis Girón Bermúdez, a resident of Havana, was arrested on 3 March 1992 in Ciudad de Nueva Gerona, Isla de la Juventud, and taken to a local State Security station where he was interrogated and warned that he would be brought before the courts if any evidence was found that he was involved in any human rights activity in that municipality.

(d) Heriberto Acebedo and Héctor Pachá were arrested on 5 March 1992 in Ciudad de Nueva Gerona, Isla de la Juventud, after thorough searches of their homes where some pamphlets with the Universal Declaration of Human Rights, a typewriter and other personal belongings were seized. They were taken to the Nueva Gerona State Security office and interrogated. Héctor Pachá was detained for five days.

(e) Elizardo Sánchez Santa Cruz, Lázaro Loreto Perea and José Luis Pujol Irízar, members of the executive department of the Concertación Democrática Cubana were arrested in Havana on 4 March 1992 and taken to the Cojimar police station where they were kept for a whole day incommunicado. Sánchez Santa Cruz was rearrested on 9 October 1992 and detained in the police station premises at Calle Cien and Calle Aldavoz for four days.

D. Loss of jobs

41. According to reports, this type of intimidation is particularly cruel because it is impossible for the persons affected to find other jobs within their profession as the State is the sole employer. The following specific cases were reported:

(a) Dimas Cecilio Castellanos, a philosophy professor at the Havana Institute of Advanced Agricultural Sciences, was expelled from his department in early 1992 after he was accused by the university authorities of having in his possession a tape recording of the so-called "Synthesis of the Social Democratic Project". His dismissal also meant that he was banned from teaching in any of the country's centres of learning.

(b) Georgina González Corvo, Danilo Alonso Santana, Rafael González Dalmau, Miguel Morales Acosta, Ramsés Pérez Menéndez, Pedro Rubio Castillo and Rafael Sariol, lecturers at the José Antonio Echevarría Advanced Politechnical Institute in Havana were fired from their jobs in January 1992 after signing a letter demanding amnesty for political prisoners, respect for human rights and democratic reforms. José Ricardo Muñoz, a researcher, and María Martínez Martínez, a secretary, were also fired for signing the letter. Three other signatories, Néstor Castellanos Martínez and Carlos Delgado Abad, lecturers at the Enrique José Varona Advanced Educational Institute, and Luis Brito López, a graduate, who had shown their solidarity with their colleagues, were also fired a few days later.

(c) Juan Antonio Rodríguez Avila, a computer technician, was fired at the Empresa de Proyecto de Industrias Varias, which belongs to the State Committee for Economic Cooperation, during this year for dissenting from the official line of the Communist Party and supporting the proposals of the Christian Liberation Movement for a bill calling for a national dialogue.

(d) Néstor Baguer, a journalist of the National News Agency and Radio Cadena Habana; Manuel Díaz Martínez, of Radio Enciclopedia and an editor at the Cuban Radio and Television Institute; and Vladimiro Roca, who worked at the State Committee for Economic Cooperation were fired for sending to the Central Committee of the Communist Party a document entitled the "Social Democratic Project" which proposed democratic changes and reform of the Constitution. That Project had been sharply criticized in editorials of the local dailies, Granma and Juventud Rebelde, of 21 January and 16 February 1992, respectively. After his dismissal, Vladimiro Roca was the target of an "act of repudiation" in front of his house on 20 February 1992. Another signatory of this document, Enrique Julio Paterson, was summoned to the Villa Marista and interrogated on 6 February 1992.

42. The Special Rapporteur also received information that some spouses of members of human rights groups were fired from their jobs in retaliation for the activities of their husbands. The following cases in particular were singled out:

(a) Xiomara González Figueroa was fired from the newspaper Juventud Rebelde where she had been working as a journalist for about 23 years. The reason invoked was that she was "no longer fit to work in the organ of a political organization". The informers suspect, however, that the reason is because Mrs. González is the wife of Fernando Velásquez Medina, leader of the Agrupación Criterio Alternativo who has been in jail since November 1991.

(b) Teresa Peña Pupo, wife of Jorge Daniel Pita Santos, member of the Association for the Defence of Political Rights, was fired from her job at the "Los Galleguitos" kindergarten, Havana, on 18 February 1992, after she had been warned several times by the head-mistress about her matrimonial tie.

(c) Mayra González Castellanos, girlfriend of Sebastián Arcos Bergnes (see para. 28 (e)) was fired on 13 April 1992 from the National Sugar Cane Research Institute where she had been working for 8 years. According to Dismissal Order No. 16/92 of the Sugar Cane Institute, to which the Special Rapporteur had access, the dismissal was due to "unreliability" because Mrs. González "maintains close relations with a citizen who is hostile to socialism and heralds capitalist ideas about human rights in Cuba, which is clearly at variance with the policy of our institute". With respect to the last phrase, the Special Rapporteur would like to stress that, in his opinion, human rights are universal and cannot be linked to any specific ideology.

IV. CONDITIONS IN THE PRISONS

43. The Special Rapporteur received many case reports on conditions in the prisons which, in his opinion, are largely inconsistent with the Standard Minimum Rules for the Treatment of Prisoners g/ and the Code of Conduct for Law Enforcement Officials. h/ Many of these reports concern the shortage and poor quality of the food served to prisoners which is unfit for human consumption. Spontaneous protests arising from this situation are often repressed through imprisonment in special punishment areas and brutal beatings.

44. The reports also repeatedly mention the alarming lack of medical care for prisoners most of whom are ill from the food and hygienic conditions. Many of the reports referred to the situation of prisoners suffering from acquired immune deficiency syndrome (AIDS), with particular emphasis on a group of approximately 30 of them who are in the punishment area called "los candados" ("the locked up") in building No. 3 of the Combinado del Este Prison. According to the information received, the care given to these prisoners is not much better than the meager care provided by the prison staff; they have been denied the assistance of the specialists of the Clínica los Cocos, a sanitorium authorized and equipped to treat AIDS patients in Havana.

45. Various sources supplied the Special Rapporteur with a list of prisoners who are serving sentences for political offences and are constantly denied medical care. Their illnesses were identified (diabetes, tuberculosis, duodenal ulcers, etc.).

46. The sources mentioned several cases in which lack of medical care had led to death. For example, Rodolfo Gómez Ramos, 42 years old, died in March 1992 after being denied medical treatment at Micro 4 de Alamar prison in Havana, where he was serving a sentence for attempting to leave the country illegally. In view of his serious medical condition, caused by an ulcer, Mr. Gómez Ramos repeatedly asked to be moved to a hospital. His requests went unheeded; instead, arrangements were made to transfer him to a stricter prison

in the province of Matanzas, Agüica prison. Apparently it was while he was being moved that he died. According to information received, a commission of inquiry was appointed after the death. The Special Rapporteur does not know what the commission's findings were. It was also reported that on 1 February 1992, Francisco Díaz Mesa, 24 years old, died at Alambrada de Manacas prison. He was denied medical treatment after contracting pneumonia. According to information received, shortly before he died, he tried to get the attention of the guards; they gave him a severe beating, and he died shortly afterwards without receiving medical assistance.

47. Beatings are another recurrent theme in the reports. Far from being isolated incidents, they apparently are administered regularly by the prison authorities in order to punish or intimidate. Moreover, complaints of maltreatment addressed to the relevant authorities never seem to get anywhere. Among the cases mentioned was that of an inmate at Alambrada de Manacas prison, Bienvenido Martínez Bustamante, who was severely beaten on 8 June 1992, supposedly for criticizing the Revolution. It is reported that he had bruises all over his body, that his face was disfigured and that he had lost consciousness; nevertheless, he received no medical attention whatsoever. There was also the case of Ibelise Camejo Moleiro, who was brutally beaten on 4 May 1992 at Guanajay prison because he had written a letter to the authorities complaining about being in solitary confinement, having no water for personal hygiene and being denied correspondence.

48. According to the reports, the situation is at its worst with regard to scarcity of food and medicine, denial of medical care, unhealthy conditions and physical maltreatment at provincial prisons such as Kilo 7 prison (Camagüey), Cinco y Medio prison (Pinar del Río), Agüica prison (Matanzas), Boniato prison (Santiago de Cuba) and Alambrada de Manacas prison (Villa Clara). Furthermore, at such prisons inmates serving time for political offences are often attacked by those serving time for ordinary offences, without any preventive action on the part of the authorities.

49. There were also reports about conditions at labour camps ("correccionales laborales"), particularly those at Motembo and Quesada. The inmates are forced to perform arduous agricultural work, sometimes in a sick and undernourished state. According to the reports, workers being punished for indiscipline in the workplace, for economic transgressions and for other similar offences are sent to such centres.

V. THE RIGHT TO LEAVE THE COUNTRY

50. The Special Rapporteur considered the reports received in this area in the context of article 13, paragraph (2), of the Universal Declaration of Human Rights, which provides that "everyone has the right to leave any country, including his own, and to return to his country".

51. Illegal departure from the territory of Cuba is defined as an offence in article 216 of the Penal Code as follows:

"1. Any person who, without fulfilling the legal formalities, departs from or takes action with a view to departing from the national territory, shall be liable to a custodial penalty for a term of one to three years, or to a fine of 300 to 1,000 cuotas (units of currency).

"2. If for the purpose of the act referred to in the preceding paragraph, force or intimidation is used against persons, or objects are seized by force, the custodial penalty shall be for a term of three to eight years."

52. It was reported that in order for a citizen to leave the country legally, he or she had to have an exit visa, a formality that was in practice difficult to fulfil, even though, in 1991, the minimum age for travel abroad was reduced to 20 for men and women - no doubt a significant step in this area. There is no right of appeal against an administrative decision to deny an exit visa, which means that the administration enjoys full discretionary power.

53. On this subject, the report of the mission undertaken to Cuba in accordance with decision 1988/106 of the Commission on Human Rights includes the following observations:

> "The President of the Council of State told the group that, generally speaking, his Government grants authorization so that people who want to leave the country can do so, the idea being that nobody should stay in Cuba by force. However, he said that there are some exceptions to this rule, including professionals and scientists, former officers in the Armed Forces, persons in possession of military secrets, deserters or their relatives, and young persons liable to military service. He went on to mention that, apart from these persons, there are many others who have permission to leave the country, but not the relevant visa, and the responsibility for this situation lies not with Cuba, but with the United States, the country to which most emigrants wish to go. He urged the United States and Western European countries to display a readiness to solve this problem and issue visas to all persons who want to leave Cuba." i/

54. Immigration restrictions imposed by other countries, as mentioned in the above quotation, and other reasons such as the fear of the legal procedures (which, in addition to being complicated, have traditionally led to reprisals and discrimination) have made many people try to leave the country without applying for permission. In terms of the devices employed and the numbers involved, it can be said that most people who leave the country illegally do so by sea, using, among other things, tyres and small home-made boats kept afloat by anything buoyant, e.g. plastic containers, foam, tarpaulin, empty barrels, etc. Between the beginning of 1992 and the end of September, some 1,900 people are estimated to have reached, by sea, the United States or such other places as the Bahamas, Guatemala, Grand Cayman or the United States naval base at Guantánamo. At the same time, it is estimated that only one out of every four attempting to leave the country in this way succeeded.

55. Pursuant to article 216, charges are brought not only against those arrested after beginning the journey, but also against those under suspicion as persons who might try to leave. For instance, the Special Rapporteur received information concerning Oscar Fernández García and Jorge Guerrero Batista, who were arrested on 7 October 1991 at a place known as Playa Covento in the Paraguay district of the province of Guantánamo. Those citizens were arrested on the grounds that they were in a prohibited zone; nevertheless, according to information received, at the time of their arrest, they were at a bus stop and, accordingly, in an unrestricted area. They were taken first to a police station in the city of Guantánamo, then to the premises of the State security services, where they remained incommunicado for 23 days, and lastly to the prison in the city of Guantánamo. In May 1992, they were tried for attempting to leave the country illegally, and were sentenced to one year in prison.

56. Other cases referred to the Special Rapporteur concerned persons who were arbitrarily denied permission to leave the country, even though they had the appropriate entry visas from foreign countries. For example, the Special Rapporteur was informed about the case of Rolando Roque Malherbe, a researcher at the National Centre for Scientific Research, who was denied permission to leave the country in order to take up an appointment at a Spanish institution. He was also denied permission to travel to Venezuela, where he had been invited to give some lectures. According to Mr. Roque Malherbe, the reasons why his applications were turned down one after another had to do with the fact that he had, in the past, stated in private circles that he did not agree with Marxist ideology. He sees no merit in the arguments given by his superiors to justify the repeated rejections, namely that his presence at the Centre was indispensable, since in fact he has been marginalized in his research work and has even been threatened with dismissal.

57. A third group of reports relates to the situation of families that remain divided because, even though family members residing in Cuba have entry visas for the countries to which they would like to travel, the authorities have denied them permission to leave in order to join other family members. The following are in this group: Ernesto Luque, a young man who is not being allowed to leave the country to join his parents residing in the United States; the wife and daughter of Antonio Cardoso, a Canadian resident, even though they were granted Canadian resident visas in 1990; the family of Dr. Ramiro Coro Caraballo, who left the country in 1989 and now lives in the United States. In connection with some of those cases, it was reported that denial of authorization to leave the country had been accompanied by reprisals, such as dismissals.

VI. CONCLUSIONS

58. Bearing in mind the information given in the foregoing sections, and hoping that the situation of human rights in Cuba may improve, the Special Rapporteur wishes to propose to the Government of Cuba, via the General Assembly, the adoption of measures:

(a) To cease persecuting and punishing citizens for reasons relevant to the freedom of peaceful expression and association;

(b) To permit legalization of independent groups, especially those seeking to carry out human rights activities, allowing them to act within the law but independently;

(c) To respect the guarantees of due process, in accordance with the provisions set forth in international instruments;

(d) To ensure greater explicitness and guarantees in the prison system, so as to avoid incidents of excessive violence exercised against prisoners. In this connection, to allow independent national groups access to prisons and to renew the agreement with the International Committee of the Red Cross for the same purposes would be a major achievement;

(e) To review sentences imposed for political offences and for trying to leave the country by unlawful means;

(f) To expedite, and to make more explicit, the procedure of applying for a permit to leave the country, while at the same time avoiding countermeasures against the applicants. Family reunification cases should be given priority attention. On this subject, the Special Rapporteur is aware of the necessity to have visas for entry into other countries.

59. It would be desirable for Cuba's policy on travel abroad to be less strict and, for other countries, in their turn and as a counterpart, to make their restrictions imposed on travel and communication vis-à-vis Cuba less stringent. This, in addition to resolving difficulties from a strictly humanitarian aspect, would help to end the artificial and painful isolation in which the Cuban people live.

60. While not overlooking the urgent need for specific measures, as proposed above, the Special Rapporteur nevertheless wishes to point out that any analysis concerning the situation and implementation of human rights in Cuba must, as a point of departure, accept the fact that the Government is, and has for a long time been, surrounded by an international climate extremely hostile to many of its policies and, in some cases, even to its very existence. This hostile international climate does not seem to have been affected by the vast political, military and economic changes that have taken place in the world in the last few years. Similarly, the changes which have occurred in the previously socialist European countries, as also in the policies of many third world countries, seem to have so far had an impact on Cuba's internal policy. On the other hand, the abrupt breakdown in the flow of aid previously received from abroad, as well as the almost total exclusion of Cuba as a beneficiary of the multilateral financing and technical assistance agencies, have not given the Government much scope for manoeuvre in this field. A policy vis-à-vis Cuba based on economic sanctions and other measures designed to isolate the island constitute, in the opinion of the Special Rapporteur, at the present stage, the surest way of prolonging an untenable internal situation, as the

only remedy that would be left for not capitulating to external pressure would be to continue desperate efforts to stay anchored in the past. International sanctions, especially if accompanied by conditions implying the adoption of specific measures, be they political or economic, are totally counterproductive if it is the international community's intention to improve the human rights situation and, at the same time, to create conditions for a peaceful and gradual transition towards a genuinely pluralist and civil society. Any suggestion along the line that the future sovereignty of the Cuban people could be contingent on external powers or forces would, in the collective memory of the Cuban people, evoke traumatic experiences of their not-very-distant history and their fight for independence, and would be a very effective obstacle towards achieving changes which could be very welcome in other circumstances.

61. Cuba is going through one of the most difficult periods in its recent history so far as the economic situation is concerned. The reasons for this are obvious and they need no elaboration in this report. The level of living has deteriorated to a point where basic services such as public transport have reached levels close to a standstill. Given this situation, the public reaction can be none other than deception and despair. On the other hand, the Government seems to be resorting to repressive measures for silencing any expression of discontent or independent opinion however moderate it may be. The persecution of individuals is being carried on, sometimes even at trifling levels, and with a callousness which, in the eyes of an impartial observer, would seem patently out of proportion. The cases referred to in this report give a clear picture of this situation.

62. The Cuban nation which, in adverse conditions, has managed to cast off much of the dead weight of underdevelopment and now has a literate and skilled population which, by applying measures such as those proposed, could take a step forward towards a productive and creative society in which the guarantees of human rights are respected in an environment of mutual confidence and social peace.

63. Finally, it is worth noting that the Universal Declaration of Human Rights and its policy-setting developments in the context of the United Nations provide, first and foremost, reading material of a world-wide scope that covers human rights and sets an irrevocable minimum standard, regardless of the social or ideological reality current in a given country. Accordingly, any particularism or regionalism which may develop specific, or its own individual, conceptions of human rights must show respect for the provisions in that minimum standard, and justify itself only so far as it raises or develops the level of protection set forth therein. In this context, ratification by Cuba of the principal instruments of human rights formulated in the context of the United Nations would be a major step forward.

Notes

a/ E/CN.4/1992/27.

b/ Throughout this report the names of groups and their posts are used as transmitted to the Special Rapporteur by non-governmental sources.

c/ E/CN.4/1989/46, para. 58.

d/ Ibid., para. 59.

e/ Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and confirmed by the General Assembly in its resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985.

f/ E/CN.4/1989/46, annex XVI.

g/ Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

h/ Adopted by the General Assembly in its resolution 34/169 of 17 December 1979.

i/ E/CN.4/1989/46, para. 86.

APPENDIX I

Note verbale dated 27 April 1992 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

The Permanent Representative of Cuba presents his compliments to the Secretary-General of the United Nations and has the honour to transmit to him the Cuban Government's legal interpretation of Commission on Human Rights resolution 1992/61.

Cuba, as its authorized representatives have stated, believes that this resolution is the illegitimate offspring of the efforts of the United States Government to interfere in Cuba's internal affairs, seeking new pretexts and complicities for continuing its aggressive policy against Cuba in the current changing conditions of the world, where old "cold war" justifications have no credibility any longer.

In that connection, Cuba has expressed its determination not to accept the illegal and discriminatory treatment that the United States Government is trying to impose on it and in which the latter is trying to involve the United Nations, so that as a result of this firm position it will not implement so much as a single comma of resolution 1992/61 imposed by the United States on the Commission on Human Rights.

This attitude is identical to that taken by Cuba with regard to Commission resolution 1991/68, and is an immutable position of principle, consistent with the Charter of the United Nations and international law.

At the same time, Cuba has declared and reiterates its willingness and desire to continue its cooperation with the United Nations in the field of human rights, as shown not only by the contribution it has always made to the work of the Commission, but also, in respect of our country in particular, by the attention that the Cuban Government devotes to replies under the procedure established under Economic and Social Council resolution 1503 (XLVIII) and to the thematic Rapporteurs, and to contacts with the Secretary-General of the United Nations.

Futhermore, and in addition to the foregoing, operative paragraph 6 of resolution 1992/61, which "Requests the Chairman of the Commission at its forty-eighth session to designate the Special Representative appointed by the Secretary-General pursuant to its resolution 1991/68 as its Special Rapporteur to review and report on the situation of human rights in Cuba", makes it very clear that this is a personal designation of Mr. Rafael Rivas Posada, who served as Special Representative of the Secretary-General until the forty-eighth session of the Commission, at which he submitted the report for which he had received a mandate under Commission resolution 1991/68, approved by the Economic and Social Council in decision 1991/252.

The personal designation of Mr. Rafael Rivas Posada as Special Rapporteur is confirmed in operative paragraph 9 of Commission resolution 1992/61, which "Requests the Special Rapporteur to carry out his mandate, including the questions contained in his letter of 6 December 1991 (E/CN.4/1992/27, annex III and appendix), to the Cuban authorities, bearing in mind ...".

In other words, this paragraph refers to the letter sent by Mr. Rivas Posada when he was still serving as Special Representative of the Secretary-General.

It is clear, as regards designation of the Special Rapporteur, that there is no other possible interpretation of the text of resolution 1992/61, and this was recognized by Mr. Rivas Posada himself when, in his letter of 18 March 1992, he informed the Chairman of the Commission of his decision not to accept the appointment as Special Rapporteur on Cuba which, in accordance with resolution 1992/61, would go to him.

Since, pursuant to Commission resolution 1991/68 and Economic and Social Council decision 1991/252, Mr. Rivas Posada's post as Special Representative of the Secretary-General expired at the forty-eighth session of the Commission on Human Rights, and at that time the Commission did not recommend any mandate to continue that post, either in the person of Mr. Rivas Posada or in any other person, it is patently clear that at present there is no legal basis for appointing a new Special Representative of the Secretary-General, and no legal basis for designating any person other than Mr. Rivas Posada as Special Rapporteur.

In the light of the foregoing, it is the legal opinion of Cuba that Commission resolution 1992/61 is in all points inapplicable because Mr. Rivas Posada declined the appointment offered to him therein.

These legal and procedural reasons, along with substantive and political reasons, lead Cuba to reject, with the utmost firmness and determination, the manoeuvres carried out against it by the United States Government which, with unparalleled hypocrisy, used the pretext of human rights and attempted to make the United Nations an accomplice in its misdeeds. Given this situation, my country's energy and determination will not be lacking at any time.

The Permanent Representative of Cuba takes this opportunity to convey to the Secretary-General the assurances of his highest consideration.

APPENDIX II

Opinion issued by the Office of Legal Affairs on the interpretation of paragraph 6 of Commission on Human Rights resolution 1992/61

...

8. In order to clarify the legal situation thus created, recourse must be had to the terms of resolution 1992/61 in their context and in the light of their object and purpose. While the resolution does not address directly the question of a possible substitution for Mr. Rivas Posada, not only the above-quoted passage, but other provisions of that resolution are relevant in ascertaining the Commission's intentions in adopting the resolution. By paragraph 7, the Commission requested the Special Rapporteur "... to maintain direct contact with the Government and citizens of Cuba, in accordance with resolution 1991/68 and decision 1989/113, concerning the issues and questions contained in and associated with the report of the mission to Cuba as well as the report of the Special Representative". By paragraph 8, the Government of Cuba was urged to cooperate with the Special Rapporteur. Finally, by paragraph 9, the Special Rapporteur was requested to carry out his mandate and to report to the Commission on the results of his endeavours pursuant to the resolution at its forty-ninth session and to submit an interim report to the General Assembly at its forty-seventh session.

9. The intention of the Commission, therefore, is that the mandate conferred originally on the Secretary-General's Special Representative would be continued by a new Special Rapporteur appointed by the Secretary-General as Special Representative and designated by the Chairman as Special Rapporteur. The Commission decided that the Chairman should, for that purpose, designate the Secretary-General's Special Representative as the Commission's own Special Rapporteur. The operative provisions of the resolution make it clear that the original mandate is to be continued and that reports on the efforts made to carry out that mandate are to be submitted both to the next session of the Commission on Human Rights and the General Assembly.

10. Nothing in the resolution indicates that its object and purpose is limited to Mr. Rivas Posada. It does not refer to him by name. No provision of any of the relevant Commission decisions of which we are aware refers by name to the individual who had been designated "Special Representative". It is the usual practice in the United Nations to consider "Special Representatives" or "Special Rapporteurs" as organs of the body establishing them, in this case the Commission on Human Rights. Absent a different intention expressed by the body establishing the post, the resignation or death of the person holding the post does not, in and of itself, end the mandate. Rather, a new appointment is normally made so that work can continue in fulfilment of the particular mandate, usually in the same manner as prescribed for the initial appointment.

11. To hold in this case that the mandate ended with the resignation of the Special Representative would result in thwarting the Commission's clearly stated intention that the mandate be continued and that reports be submitted on the endeavours made to carry it out. There is no language to support the contention that the mandate was only to be carried out by a particular person.

12. Moreover, the Commission's practice supports the Chairman's position that a replacement should be sought. For example, in 1985, the Commission's Special Rapporteur on the situation of human rights in Chile resigned. The Chairman appointed a successor "following consultations with the members of the Bureau of the Commission and in accordance with established practices" (E/CN.4/1985/41, para. 5).

13. Finally, nothing in resolution 1992/61 indicates that the Commission meant to imply that the designation of a Special Rapporteur would entail that, in future cases, the nomination of a Special Rapporteur would have to be done, not by the Secretary-General, but by reverting to the usual practice. On the contrary, the resolution refers explicitly to the fact that "the Special Representative appointed by the Secretary-General" is designated Special Rapporteur.

14. We agree, therefore, with the Chairman's intention to invite the Secretary-General to designate a new Special Representative and find it to be a logical and correct interpretation of Commission resolution 1992/61. As envisaged by the Chairman, in this case the Secretary-General should be invited to appoint a new Special Representative. Such an appointment should be made in accordance with the procedure set out for the appointment of the initial Special Representative in Commission resolution 1991/68, i.e. "after consultation with the Chairman and the Bureau of the Commission".

15. Once appointed by the Secretary-General, the Special Representative would then, as indicated by the Chairman, be designated the Commission's Special Rapporteur pursuant to its resolution 1992/61.

APPENDIX III

List of 49 persons associated with human rights organizations or of so-called political dissidents who, according to the organization "Americas Watch", were in prison at the end of September 1992

Marco Antonio Abad Flamand
Gabriel Aguado Chávez
Eliezer Aguilar López
Pedro Alvarez Martínez
María Elena Aparicio
Sebastián Arcos Bergnes
Daniel Azpillaga Lombard
Tomás Azpillaga Lombard
Reinaldo Betancourt Alvarez
Amador Blanco Hernández
Rigoberto Carcelles
Jesús Contreras Milán
Jorge Crespo Díaz
Aníbal Cruz Martínez
María Elena Cruz Varela
Bienvenida Cúcalo Santana
Joel Dueñas
Aurea Feria Cao
Augustín Figueredo Figueredo
Juan Enrique García Cruz
Pastor Herrera Macurán
Rubén Hoyos Ruíz
Wilfredo Llanes Márquez
Juan Ramón Llorens
Basilio Alexis López
Alexis Maestre Saborit
Rigoberto Martínez Castillo
Luis Enrique Martínez Martínez
Hubert Luis Matos Sánchez
Juan Mayo Méndez
Ramón Obregón Sarduy
Rolando Pagés
Omar Pérez Morales
Luis Alberto Pita Santos
Jorge Pomar Montalvo
Omar del Pozo
José Luis Pujol
Jorge Quintana
Yndamiro Restano
Julián Jorge Reyes
Pablo Reyes
Roberto Ríos Alducín
Félix Rodríguez Ramírez
Amado Rodríguez Rodríguez
Miguel Sordo Quintanilla
Jorge Vázquez
Fernando Velázquez Medina
Eduardo Vidal
Fidel Vi_a Linares

UNITED NATIONS

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General Assembly

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Forty-seventh session
Agenda item 97 (c)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Cuba

Note by the Secretary-General

Corrigendum

Page 21, paragraph 60

The third sentence should read

Similarly, the changes which have occurred in the previously socialist European countries, as also in the policies of many third world countries, seem not to have had an impact so far on Cuba's internal policy.

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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

United Nations Voluntary Fund for Indigenous Populations

Report of the Secretary-General

1. The United Nations Voluntary Fund for Indigenous Populations was established pursuant to General Assembly resolution 40/131 of 13 December 1985 with the purpose of providing financial assistance to representatives of indigenous communities and organizations who wish to participate in the deliberations of the Working Group on Indigenous Populations. The Working Group, which was established pursuant to Economic and Social Council resolution 1982/34 of 7 May 1982, is a subsidiary organ of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and meets annually at Geneva. The Group has a two-fold mandate: to review developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous peoples and to evolve international standards concerning indigenous rights.

2. The Voluntary Fund is administered by the Secretary-General in accordance with the Financial Regulations and Rules of the United Nations and other provisions relevant to this Fund (see E/CN.4/Sub.2/1983/20). In this task, the Secretary-General is advised by a Board of Trustees composed of five persons with relevant experience on indigenous issues and serving in their personal capacity. The members of the Board are appointed by the Secretary-General for a three-year term renewable in consultation with the Chairman of the Sub-Commission. At least one of the members of the Board shall be a representative of a widely recognized organization of indigenous peoples. The report of the first session of the Board of Trustees was presented to the General Assembly at its forty-third session in 1988 (A/43/706).

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RESTRUCTURING AND REVITALIZATION OF THE UNITED NATIONS IN THE ECONOMIC, SOCIAL AND RELATED FIELDS

Note of the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the position papers submitted by delegations or groups of delegations to the ad hoc open-ended working group of the Economic and Social Council on enhancing international cooperation for development: the role of the United Nations (E/1992/WP.1), as well as the compendium of position papers prepared by the Secretariat (E/1992/WP.1/Add.1). The working group was established by the President of the Council for the purpose of holding consultations prior to the forty-seventh session of the General Assembly.

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6 November 1992

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Agenda items 12 and 47

REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

RESTRUCTURING AND REVITALIZATION OF THE UNITED NATIONS IN THE ECONOMIC, SOCIAL AND RELATED FIELDS

Note of the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the position papers submitted by delegations or groups of delegations to the ad hoc open-ended working group of the Economic and Social Council on enhancing international cooperation for development: the role of the United Nations (E/1992/WP.1), as well as the compendium of position papers prepared by the Secretariat (E/1992/WP.1/Add.1). The working group was established by the President of the Council for the purpose of holding consultations prior to the forty-seventh session of the General Assembly.

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UNITED NATIONS

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General Assembly

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10 November 1992

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Forty-seventh session
Agenda item 97 (a)

HUMAN RIGHTS QUESTIONS: IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS

Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

Note by the Secretary-General

The Secretary-General transmits herewith to the General Assembly the report of the fourth meeting of persons chairing the human rights treaty bodies convened pursuant to General Assembly resolution 46/111 of 17 December 1991.

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ANNEX

Report of the fourth meeting of persons chairing the human rights treaty bodies

I. INTRODUCTION

1. Since the adoption of resolution 37/44 on 3 December 1982, the General Assembly has continuously kept under review the problems relating to the effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights. Those problems have also received careful attention during the various sessions of the treaty bodies, at some of the meetings of States parties, and at meetings of such other organs as the Economic and Social Council and the Commission on Human Rights.

2. Pursuant to General Assembly resolution 38/117 of 16 December 1983, the Secretary-General convened a first meeting of the persons chairing the bodies entrusted with the consideration of State party reports in August 1984. The report of that meeting was presented to the General Assembly at its thirty-ninth session (A/39/484, annex). A second meeting was convened by the Secretary-General in October 1988, pursuant to General Assembly resolution 42/105 of 7 December 1987, and the report of that meeting was presented to the General Assembly at its forty-fourth session (A/44/98, annex). A third meeting was convened by the Secretary-General in October 1990, pursuant to General Assembly resolution 44/135 of 15 December 1989, and the report of that meeting was presented to the General Assembly at its forty-fifth session (A/45/636, annex).

3. In its resolution 46/111 of 17 December 1991, the General Assembly endorsed the conclusions and recommendations of the meetings of persons chairing the human rights treaty bodies aimed at streamlining, rationalizing and otherwise improving reporting procedures; requested the Secretary-General to take appropriate steps in order to finance the biennial meetings of persons chairing the human rights treaty bodies from resources available from the regular budget of the United Nations; and decided to give priority consideration at its forty-seventh session to the conclusions and recommendations of the meetings of persons chairing treaty bodies, in the light of the deliberations of the Commission on Human Rights. In its resolution 1992/15 of 21 February 1992, the Commission on Human Rights endorsed the recommendation in the report of the third meeting of persons chairing the human rights treaty bodies to institutionalize the meetings and requested the General Assembly to take appropriate action to enable those meetings to be held on a biennial basis; and requested that the meeting of persons chairing the human rights treaty bodies in 1992 include on its agenda the question of the extent of reservations to human rights instruments.

4. The fourth meeting of persons chairing the human rights treaty bodies was convened by the Secretary-General pursuant to General Assembly resolution 46/111 and Commission on Human Rights resolution 1992/15.

II. ORGANIZATION OF THE MEETING

5. The meeting was held at the United Nations Office at Geneva from 12 to 16 October 1992. The following persons chairing the human rights treaty bodies attended: Mr. Philip Alston (Committee on Economic, Social and Cultural Rights), Mr. Fausto Pocar (Human Rights Committee), Mr. Luís Valencia Rodríguez (Committee on the Elimination of Racial Discrimination), Mrs. Mervat Tallawy (Committee on the Elimination of Discrimination against Women), Mr. Joseph Voyame (Committee against Torture) and Mrs. Hoda Badran (Committee on the Rights of the Child). Mr. Hector Villarroel, a member of the Group of Three established under the International Convention on the Suppression and Punishment of the Crime of Apartheid, also participated in the meeting.

6. Representatives of the International Labour Organisation (ILO), Amnesty International and the International Service for Human Rights also attended the meeting.

7. The agenda for the meeting was as follows:

1. Opening of the meeting.

2. Election of the Chairperson.

3. Adoption of the agenda.

4. Review of recent developments relating to the work of the treaty bodies and follow-up to the conclusions and recommendations adopted at the third meeting of chairpersons.

5. Matters requiring special consideration:

   (a) General situation of overdue reports;

   (b) Identification of possible technical assistance projects by the treaty bodies;

   (c) Question of the extent of reservations to human rights instruments;

   (d) Comments and recommendations to the Preparatory Committee for the World Conference on Human Rights;

   (e) Developments relating to the Centre for Human Rights, including support for the work of the treaty bodies.

6. Other matters.

7. Conclusions and recommendations.

8. The following documentation was made available to the participants:

(a) Provisional agenda (HRI/MC/1992/1);

(b) Report of the Secretary-General on progress achieved in improving the operation of the treaty bodies (HRI/MC/1992/2);

(c) Report of the Secretary-General on the status of the international human rights instruments and the general situation of overdue reports (HRI/MC/1992/3);

(d) Working paper prepared by the secretariat on the question of the extent of reservations to human rights instruments;

(e) Compilation of general comments and general recommendations adopted by human rights treaty bodies (HRI/GEN/1);

(f) Background documents, including the notes by the Secretary-General to which were annexed the reports of the first, second and third meetings of the chairpersons (A/39/484, A/44/98 and A/45/636); a study by Mr. Philip Alston on possible long-term approaches to enhancing the effective operation of the human rights treaty bodies (A/44/668); relevant reports of the Secretary-General to the Commission on Human Rights and to the Subcommission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1992/44, E/CN.4/1992/75 and E/CN.4/Sub.2/1992/27 and Corr.1); General Assembly resolutions 45/85, 45/115 and 46/111; Commission on Human Rights resolutions 1991/20 and 1992/15; and various reports and other documents relating to the meetings of the Preparatory Committee of the World Conference on Human Rights.

9. The meeting was opened by Mr. Enayat Houshmand, Chief of the Implementation of International Instruments and Procedures Branch of the Centre for Human Rights, on behalf of the Under-Secretary-General for Human Rights. In his introductory statement, Mr. Houshmand noted, inter alia, that there had been a significant increase in the numbers of States parties to each of the human rights instruments since the third meeting of chairpersons in 1990 and that, at present, more than 160 States were party to one or more of those instruments.

10. He drew particular attention to two issues that needed to be addressed by the meeting. The first concerned the question of the extent of reservations to the various human rights conventions, which had been considered by a number of human rights treaty bodies, as well as by the Subcommission on Prevention of Discrimination and Protection of Minorities. Those bodies had expressed concern that certain reservations could have the effect of undermining the human rights treaties. In its resolution 1992/15, the Commission on Human Rights had requested that the issue be included in the agenda of the fourth meeting of chairpersons. The second issue concerned the suggestion made by two members of treaty bodies that the meeting of chairpersons should examine the possibility of undertaking preventive action against human rights

violations, within the scope of the activities of the human rights treaty bodies. Additionally, in his report to the forty-seventh session of the General Assembly on the work of the Organization, the Secretary-General had identified the need to consider ways to empower him and the expert human rights bodies to bring massive violations of human rights to the attention of the Security Council, together with recommendations for action.

11. Mrs. Mervat Tallawy was elected Chairperson of the meeting and Mr. Philip Alston was elected Rapporteur.

12. On 15 and 16 October 1992, the chairpersons considered the draft report on their fourth meeting. The report, as amended during the course of the discussion, was adopted unanimously by the chairpersons.

III. REVIEW OF RECENT DEVELOPMENTS RELATING TO THE WORK OF THE TREATY BODIES AND FOLLOW-UP TO THE CONCLUSIONS AND RECOMMENDATIONS ADOPTED AT THE THIRD MEETING OF CHAIRPERSONS AND MATTERS REQUIRING SPECIAL CONSIDERATION

13. Consideration of agenda items 4 and 5 began with a brief oral overview by each of the participants of recent developments of special concern to the respective treaty bodies. Participants noted that the significant increase in the number of States parties to each of the instruments meant that many of the long-standing problems of the treaty bodies needed to be addressed immediately if the treaty body system were to carry out its functions effectively. Chief among those problems were the precarious financial situation of some of the committees and the general need for increased servicing from the secretariat on the part of all committees. Additionally, a reliable information infrastructure was needed to ensure that the members of the various committees were informed of all relevant developments and that the work of the treaty bodies was sufficiently publicized.

14. Throughout their discussions, the chairpersons emphasized the importance of the promotion and protection of human rights within the scope of the activities of the United Nations. Recent developments had demonstrated the close connection between human rights and national stability and development as well as international peace and security. If United Nations action in the field of human rights was to be responsive to both the increased demands being placed upon it by Governments and the rising expectations of the general public, a significantly greater commitment of resources to United Nations human rights programmes would be necessary. Although the human rights treaty bodies were at the centre of the efforts to implement the international human rights standards adopted by the United Nations, their effective functioning could not be considered in isolation from the support provided under other activities of the Centre for Human Rights, particularly activities relating to information and technical assistance. If greater resources were not forthcoming, the United Nations human rights programme as a whole risked losing credibility.

Timely submission of overdue reports

15. The chairpersons emphasized that the timely submission of reports was essential for the effective discharge by the treaty bodies of their duties under the various instruments. Since the reports formed the basis of the dialogue between the committees and the States parties, overdue reports constituted a serious interruption of the implementation process envisaged under such instruments. While a large number of States parties were overdue in meeting their reporting obligations, it was noted that a small number of States accounted for a disproportionate number of the overdue reports for all of the instruments. Some of the committees had taken initiatives to focus attention on those States and invited them to submit relevant information in accordance with their reporting obligations. It would be helpful if all of the treaty bodies would, at the very least, identify those States whose reports were long overdue so that steps could be taken to re-establish cooperation between the committees and the States concerned. This would also facilitate the identification of factors and difficulties experienced by those States with regard to their reporting obligations. The need to establish an ongoing regular dialogue was particularly important in the case of the few States whose initial reports were long overdue. By failing to fulfil their obligations under the respective instruments to which they were a party, such States threatened the credibility of the monitoring process as a whole. A range of alternative approaches to deal with this grave situation and encourage the closer cooperation of all States parties was discussed by the participants.

16. It was also noted that the long delay in some cases between the submission of a report and its actual consideration by the committee concerned was a disincentive for States to submit their reports on time. The primary reason cited for such delays was the lack of sufficient time available to those treaty bodies for the consideration of reports. This was particularly problematic for those committees which were only able to meet annually and then often for an insufficient period of time. Significant backlogs in the consideration of reports resulted in various detrimental effects, including the fact that reports lost their timeliness and necessitated the provision of substantial supplementary reporting by the State party.

Universalization of the human rights instruments

17. Participants welcomed the appreciable increase in the number of States parties to the various instruments that had taken place since the 1990 meeting of chairpersons. Although none of the treaties was close to having universal adherence, the treaty system as a whole included the vast majority of Member States of the United Nations. It was particularly important for the treaty bodies to meet the challenge of effectively supervising the implementation of human rights standards in the large number of new States parties. In that regard, the need for an improved information base supporting the work of the treaty bodies was stressed. It was also pointed out that an integrated - and not a fragmented - approach was needed with regard to the promotion of adherence to the various human rights instruments as well as in monitoring their implementation.

18. Concern was expressed that a number of States had adhered to only one or the other of the two International Covenants. This had the effect of undermining the principle that the two sets of rights covered in the Covenants - economic, social and cultural rights on the one hand and civil and political rights on the other - were complementary and indivisible. The States parties concerned should be urged to consider ratifying or acceding to the other Covenant as soon as possible. It was also pointed out that there were a number of new States that had previously been constituent parts of other States parties to some of the human rights treaties. All appropriate measures should be taken to ensure that the people living in those successor States would continue to benefit from the protection afforded by the human rights instruments.

Financial situation of the treaty bodies

19. The participants welcomed the amendments to the funding provisions of the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which had been recently adopted by the meeting of States parties to those instruments. However, serious concern was expressed over the amount of time that would likely be required for those amendments to enter into force: at least two years would be required to obtain the accord of the necessary two thirds of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination. In the meantime, the Committee on the Elimination of Racial Discrimination would continue to run the risk of having its sessions curtailed or cancelled. This had happened in five of the past six years, including 1992. Under such circumstances, it was impossible for the Committee to discharge its responsibilities effectively under the Convention. This was particularly worrisome in view of the rise in racial violence and ethnic strife in many parts of the world. The Committee against Torture also faced a similarly uncertain financial situation. The States parties concerned should act as speedily as possible to approve the amendments that had been adopted. The General Assembly and the Secretary-General should also take all necessary action to ensure the financial stability of those two treaty bodies until the proposed amendments entered into force.

Adequate secretariat resources for servicing the treaty bodies

20. The chairpersons underlined the close link between adequate secretariat resources and the effective functioning of the treaty body system. Reference was made to the critical need for additional staffing in view of the large number of new States parties to the various instruments and the significantly increased workload that would result. At the same time, each of the treaty bodies was requesting additional services from the secretariat. In particular, more staff time was needed to process and analyse the large amount of relevant information originating from the various United Nations bodies and agencies as well as from intergovernmental and non-governmental sources. It was only with a higher level of secretariat support and a more comprehensive documentary basis that the treaty bodies would be able to ensure that the

suggestions and recommendations they adopted would be of consistently high quality.

21. The participants agreed that the question of adequate servicing for the work of the treaty bodies was related to the overall priority given in the United Nations to human rights questions. Within this context, it was pointed out that the various committees needed to reassess their objectives and identify the staffing and other servicing resources needed to achieve those goals. It was emphasized that, in the short term, it was vital for the work of all of the treaty bodies that the Committee on the Elimination of Discrimination against Women, which was serviced by the United Nations Office at Vienna, be kept regularly apprised of developments concerning the activities of the Centre for Human Rights. In the medium term and, indeed, as soon as possible, responsibility for the servicing of the Committee on the Elimination of Discrimination against Women should be assumed by the Centre for Human Rights.

22. Attention was also drawn to the question of a committee resource room within the Centre for Human Rights. This measure had been recommended by the chairpersons at both their second and third meetings and had subsequently been endorsed on a number of occasions by various treaty bodies. In its resolutions 1991/20 and 1992/15, the Commission on Human Rights had requested that the Secretary-General give consideration to the establishment of such an area for the purpose of facilitating access to the various sources of information that were indispensable to the effective functioning of the treaty bodies. It was pointed out that, in the present situation, documentation from United Nations bodies was not readily accessible to members of the treaty bodies and that other sources of information were available on an entirely unsatisfactory basis. In view of the fact that four years had passed since the need for the facility was first identified, the Secretary-General was urged to take action on the matter, particularly in view of the projected restructuring of the United Nations Office at Geneva.

Computerization of the work of the treaty bodies

23. With respect to that issue, the chairpersons noted with regret that only three States had responded to the request of the Secretary-General to contribute to the one-time start-up costs of the computerized information system proposed in the report of the Secretary-General (E/CN.4/1990/39). The contributions that had been received fell far short of the amount projected as the initial cost of the system. One way to facilitate progress would be to solicit contributions actively from corporate sponsors, particularly from the computer industry. It was pointed out, however, that, should such an initiative be undertaken, due consideration would have to be given to ensure compatibility with the long-term computerization planned for the Centre for Human Rights. The computerization of the treaty body system would ultimately form the basis for the human rights information base needed by the Centre for Human Rights and would greatly assist other United Nations bodies and agencies whose work concerned human rights.

Improving the effectiveness of the reporting process with special reference to adequate information

24. It was pointed out that, for the consideration of a State party's report, each of the treaty bodies needed to have access not only to the past reports of that State under the instrument concerned, but also to pertinent information contained in the reports submitted by that State to other treaty bodies. Taken together, the information received by each of the treaty bodies comprised an impressive and important resource. The chairpersons also emphasized the importance of having relevant information from non-governmental organizations at their disposal. At present, this was only the case for some of the committees.

25. Participants welcomed the compilation of general comments and general recommendations of the various treaty bodies (HRI/GEN/1), which had recently been prepared by the secretariat. It was suggested that future revisions of the document should include a subject index.

Promoting interaction among the treaty bodies

26. The chairpersons discussed the system of designating certain members of each committee to follow developments in other committees and human rights bodies. That system, which had been recommended at the 1990 meeting of chairpersons, was generally regarded as unsatisfactory in practice. The view was expressed that the preparation of a short analytical summary of each session of the various committees would provide a more effective and consistent solution to the problem of keeping members of the various treaty bodies informed of developments in the treaty body system. It was pointed out that such a service would require additional secretariat resources in order to be implemented. It was suggested that one way to minimize the added burden on the secretariat would be to entrust the drafting of the analytical summaries to certain members of the treaty bodies. However, it was more widely felt that only the secretariat had the necessary expertise and was in the best position to provide the required information.

27. With regard to the recommendation of the Committee on Economic, Social and Cultural Rights that members of that Committee should meet jointly with members of the Human Rights Committee, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child to consider approaches to supervising overlapping treaty obligations, it was noted with regret that no meeting had yet been scheduled. Strong support was expressed for the initiative, which was still considered important and valuable. Support was also expressed for any similar meetings or occasions when members from different committees would be able to meet in order to discuss issues of common concern.

28. On a related issue, the chairpersons discussed the importance of providing a background briefing for all new members of the treaty bodies. It was suggested that such a briefing could be coordinated by the chairperson of the treaty body concerned and could be carried out in cooperation with the secretariat.

Information and publications on the work of the treaty bodies

29. The chairpersons underlined the importance they attached to strengthening the human rights information programme to make it more coherent and effective. It was pointed out that the human rights publications budget of the United Nations was not sufficiently large to ensure that the work of the treaty bodies was adequately or regularly publicized. Given the high degree of interest in human rights on the part of government officials, intergovernmental and non-governmental organizations, academic and research institutions and the general public, the chairpersons agreed that a higher priority should be given to the production, translation and distribution of human rights publications and documentation. It was pointed out, for example, that the Manual on Human Rights Reporting, which was considered a valuable tool to assist States parties with their reporting obligations, had been published thus far only in English and Chinese.

30. The participants welcomed the publication of the fact sheets on the various treaty bodies, although it was pointed out that, before such publications were produced, the chairperson of the committee concerned should be consulted and his or her comments obtained with regard to content and presentation. It was also suggested that the Human Rights Newsletter, which was not published by the Centre for Human Rights on a regular schedule, should be given a new format and a major role in informing the human rights community of the latest developments in the numerous United Nations human rights bodies and mechanisms. The view was expressed that the format and publishing schedule of the Bulletin of Human Rights would also benefit from a thorough review. Support was given to the various human rights training manuals being drafted by the Centre for Human Rights. However, the chairpersons underlined that there should be a comprehensive review of the distribution strategy for those and other human rights publications to ensure their availability to the specialists concerned as well as to the general public.

Regional meetings of the treaty bodies

31. Reference was made to the recent informal regional consultation of the Committee on the Rights of the Child held at Quito. The meeting, which was organized by the United Nations Children's Fund (UNICEF) in cooperation with the Centre for Human Rights, had provided a valuable opportunity to promote greater awareness of the Convention on the Rights of the Child and to publicize the work of the Committee. The chairpersons expressed strong support for such meetings and suggested that ways should be explored to organize similar meetings for the various committees in the regions, where they could have direct contact with the officials, agencies and organizations responsible for the implementation of the various human rights treaties.

World Conference on Human Rights

32. With regard to the World Conference, attention was drawn to the letter addressed to Mr. Antoine Blanca, Under-Secretary-General for Human Rights and Secretary-General of the World Conference on Human Rights, by the four representatives of the treaty bodies to the third session of the Preparatory

Committee. In their letter, the treaty body representatives pointed out that they had been placed at a disadvantage and thereby unable to make a full contribution to the preparatory process. The representatives suggested that, pursuant to General Assembly resolution 45/155, a special working group should be established to examine the issues relevant to the implementation of existing human rights standards and instruments, evaluate the effectiveness of United Nations methods and mechanisms, and formulate concrete recommendations for improving the effectiveness of United Nations mechanisms aimed at promoting, encouraging and monitoring respect for human rights and fundamental freedoms.

33. The chairpersons noted that the World Conference on Human Rights had been discussed in each of the treaty bodies and a number of constructive recommendations had been adopted as a result. Additionally, provision had been made by the United Nations for representatives of the treaty bodies to attend the sessions of the Preparatory Committee. Participants expressed their regret at the difficulties that had been encountered in the past and strongly urged that the treaty body representatives should, in the future, be provided with every opportunity to participate effectively in the preparatory process. They also strongly supported the establishment of a special working group at the Preparatory Committee and at the World Conference, as proposed in the letter, as an important means to facilitate the realization of the objectives of the Conference, as set out in General Assembly resolution 45/155. It was also agreed that the treaty bodies should be represented at the regional meetings that were to be held as part of the preparatory process, as well as at the satellite meetings, as appropriate.

Identification by the treaty bodies of possible technical assistance and advisory services

34. The participants were informed by the secretariat that training courses had been organized in the past by the Centre, in cooperation with the United Nations Institute for Training and Research (UNITAR) initially, and later with the support of the Voluntary Fund for Technical Cooperation in the Field of Human Rights, for state officials in regions or subregions on the reporting obligations under all treaties in force. It was suggested that it might be useful to evaluate how that training had helped to improve the reporting by the States parties concerned. The treaty bodies might then envisage recommending the organization of training courses on a regional or subregional level.

35. The chairpersons were further informed that the programme had recently focused on providing ad hoc advisory services to the States parties upon request and when an organ such as the Commission on Human Rights had so recommended. It was, however, more expensive to provide assistance on a national basis than on a regional one, and such service could not be provided to all States parties. Accordingly, assistance should be provided to those countries whose needs were of a priority nature. In that connection, it was suggested that priority should be placed on providing assistance to developing countries having already demonstrated consistent problems with reporting under

various human rights treaties and that officials of national human rights institutions and of non-governmental organizations should be included. International training institutions should also be invited to include the reporting systems in their programmes.

Extent of reservations to human rights treaties

36. Each chairperson presented the situation of reservations with regard to the respective treaty. The situation was felt to be very alarming concerning the Convention on the Elimination of All Forms of Discrimination against Women since a number of reservations were thought by the Committee on the Elimination of Discrimination against Women to be incompatible with the object and purpose of the Convention and should not have been permitted. The same question was also raised with regard to the Convention on the Rights of the Child. It was agreed that the States parties concerned should be urged to withdraw the reservations and that other States parties should not hesitate to object to such reservations as appropriate. The treaty bodies should systematically review reservations made when considering a report and include in the list of questions to be addressed to reporting Governments a question as to whether a given reservation was still necessary and whether a State party would consider withdrawing a reservation that might be considered by the treaty body concerned as being incompatible with the object and purpose of the treaty. The chairpersons also discussed the feasibility of a comparative study on the reservations made to the seven existing treaties. It was suggested that such a study could be prepared, without financial implications, by the Subcommission on Prevention of Discrimination and Protection of Minorities.

Massive violations of human rights

37. The chairpersons examined the suggestion made by the Secretary-General 1/ that ways should be explored of empowering the Secretary-General and expert human rights bodies to bring massive violations of human rights to the attention of the Security Council together with recommendations for action. The chairpersons fully endorsed this suggestion. The definition of "massive" violations was discussed in particular. It was agreed that the identification by expert bodies of "massive" violations should not be limited to assessing the quantity of violations committed. The gravity of violations committed with respect to a limited number of victims could suffice to qualify a violation as "massive". A situation in a country where the human rights of thousands of persons were persistently violated could also be considered as a "massive" violation. All human rights should be taken into consideration in that respect. Each organ could decide which situation required forwarding to the Security Council.

Prevention of human rights violations and urgent action

38. The chairpersons agreed to the suggestions of some members of the treaty bodies that it would be useful to examine how violations of human rights could be effectively prevented and recommended that the treaty bodies give further consideration to the subject as appropriate.

39. Urgent action was felt to be necessary in order to monitor emergency situations and to allow the treaty bodies to intervene rapidly in such situations.

Agenda of the fifth session

40. The chairpersons approved a tentative list of issues that should be reflected in the draft agenda for the fifth meeting of the chairpersons.

IV. CONCLUSIONS AND RECOMMENDATIONS

41. The following conclusions and recommendations are submitted to the General Assembly for its consideration in accordance with resolution 46/111. Some concern action that might be taken by the Assembly itself or by other appropriate organs of the United Nations, while others fall within the competence of the Secretary-General, of the respective treaty bodies or of the States parties to the treaties. However, no distinction is drawn in this regard for the purposes of the present report, since the mandate of the meeting is to propose diverse means to improve the functioning of the treaty supervisory system within the overall framework of the United Nations.

Role of the Security Council and development of effective responses in emergency situations

42. In relation to the work of the Security Council, the chairpersons consider that human rights issues need to be accorded appropriate priority, on a continuing basis, at all times. In this regard, the chairpersons welcomed the recognition by the Security Council, at its January 1992 meeting at the level of heads of State and Government, that "the absence of war and military conflicts amongst States does not in itself ensure international peace and security. The non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security". 2/ Similarly, as noted by the Secretary-General in his 1992 annual report, "respect for human rights is clearly important in order to maintain international peace and security". 3/

43. Accordingly, the chairpersons recommend that the Security Council should be encouraged to take full account, in its deliberations and in its decisions and resolutions, of the obligations of States concerned pursuant to the principal human rights treaties. The chairpersons also express their full support for the proposal made by the Secretary-General that ways should be explored "of empowering the Secretary-General and expert human rights bodies to bring massive violations of human rights to the attention of the Security Council, together with recommendations for action". 4/ In that regard, the chairpersons urge the treaty bodies to take all appropriate measures in response to such situations. They note that the term "massive", as used in this context, should be interpreted in the light of the January 1992 statement of the Security Council and should therefore encompass the persistence of massive structural violations of the full range of human rights.

44. The chairpersons note that the treaty bodies have an important role in seeking to prevent as well as to respond to human rights violations. It is thus appropriate for each treaty body to undertake an urgent examination of all possible measures that it might take, within its competence, both to prevent human rights violations from occurring and to monitor more closely emergency situations of all kinds arising within the jurisdiction of States parties. Where procedural innovations are required for this purpose, they should be considered as soon as possible.

45. The chairpersons recommend that, whenever ad hoc expert groups are being established by United Nations bodies or by the Secretary-General for any purpose that has a significant human rights objective, consideration be given to drawing upon the expertise of members of the human rights treaty bodies. In that regard, the chairpersons considered that it might be appropriate for a member of one of the treaty bodies to be included as part of the commission of experts appointed pursuant to Security Council resolution 780 (1992) to consider evidence of grave breaches of international humanitarian law in the territory of the former Yugoslavia.

More effective integration of human rights into the totality of United Nations activities

46. The chairpersons wish to emphasize the need for the United Nations as a whole, and the General Assembly in particular, to ensure that human rights concerns are fully integrated into the overall range of activities of the Organization. For this purpose, it would seem appropriate that consideration be given to undertaking an overall review of the system with a view to identifying the necessary innovations and reforms.

Financing

47. In relation to the financing of the work of the treaty bodies, the chairpersons express their wholehearted support for the initiatives endorsed by the respective meetings of the States parties to the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture designed to provide assured funding from the regular budget of the United Nations. The chairpersons note that it is imperative that individual States parties act as rapidly as possible to ratify the resulting amendments to the two treaties.

48. In the period prior to the entry into force of those amendments there will continue to be a critical need to assure adequate funding to the two committees concerned to enable them to fulfil adequately their supervisory functions. The chairpersons note that, especially in the case of the Committee on the Elimination of Racial Discrimination, this might entail the need for the provision of contingency funds by the Secretary-General to enable the Committee to meet as scheduled until such time as the amendment to the Convention receives the necessary number of ratifications.

Secretariat servicing

49. The chairpersons note that, in the light of the greatly increased recognition of the need for human rights concerns to permeate the entire range of international endeavours, the resources available to the Centre for Human Rights are grossly inadequate, despite recent improvements, to enable it to fulfil the manifold and constantly growing number of tasks entrusted to it. In the view of the participants, existing working conditions of the secretariat, especially in terms of the facilities and information technology available at Geneva, can best be described as primitive. While the ramifications of the issue extend well beyond the immediate mandate of the meeting of chairpersons, it must be noted that many of the urgent needs experienced by the treaty bodies cannot be satisfactorily dealt with in the absence of more far-reaching financial, personnel and administrative reforms. The chairpersons urge that the broader situation be taken fully into account in the context of the ongoing restructuring of the social and economic activities of the United Nations.

50. The chairpersons consider that, despite the best efforts of the available staff within the Centre for Human Rights and the Branch for the Advancement of Women, the resources of the secretariat required to ensure adequate servicing of each of the treaty bodies are not available. This inadequacy has, in turn, led to a situation in which requests for assistance by the various treaty bodies are sometimes unable to be met, despite the fact that such requests have been kept at an artificially low level in recognition of the impossibility of greater assistance being provided from existing resources. It is therefore recommended that a thorough study be undertaken, ideally by an independent expert, of the full range of measures that would be required at the secretariat level if adequate servicing is to be provided.

Information sources

51. In view of the fact that an adequate information base is an essential prerequisite for the effective functioning of the supervisory system, the chairpersons believe that a number of major reforms are urgently required. In general, it is apparent that the problems encountered by the treaty bodies in obtaining access to information are closely linked to the broader information challenges facing the Centre for Human Rights. The chairpersons believe that there is a desperate need for the development of a coherent and comprehensive information policy within the Centre as a whole.

52. The starting-point for reform should be the creation of a centralized information and documentation unit within the Centre. While such a unit will require space and the services of a trained documentalist and others, it is essential to the work of the Centre as a whole and to the satisfactory servicing of the treaty bodies. It is recommended that the General Assembly should request the Secretary-General to take appropriate steps to establish such a unit. In the meantime, until such a unit is established, the chairpersons wish to reiterate, for the third time, the need for the immediate establishment of a committee resource room, which would enable the members of

each committee to obtain access to the basic documentation required for the effective discharge of their functions. An effort should also be made to provide committee members with access to on-line information databases that contain information of direct relevance to their work.

53. The chairpersons note that the process of requesting voluntary contributions to enable the computerization of the information relating to the work of the treaty bodies was begun in February 1992. Member States, as well as the private sector, foundations and other appropriate entities are urged to consider contributing to the fund. The Secretary-General is requested to report regularly to the treaty bodies on the progress made in implementing the programme of work identified by the Computer Task Force appointed by the Secretary-General at the request of the Commission on Human Rights. Immediate measures should be taken, on the basis of the funds already available, to begin implementation of some of the Task Force's recommendations.

54. The chairpersons request the secretariat to ensure that one copy of a comprehensive country dossier is available to each committee in respect of each State party whose report is under consideration at any given session. The dossier should be as comprehensive as possible in terms of the sources of information reflected. In addition to the full range of directly relevant United Nations documentation, the dossier should contain all available information from non-governmental sources and relevant press reports.

55. In order to ensure an adequate flow of information from non-governmental organizations, each treaty body should consider formally inviting such groups to submit written documentation and, wherever appropriate, to do so in the form of official submissions. The chairpersons also strongly urge all non-governmental organizations in the human rights field, at both the international and national levels, to seek to provide as much relevant information as possible to the treaty bodies and to do so on a systematic and timely basis. At a minimum, a regular flow of all available information for inclusion in country dossiers should be assured.

Public information

56. In terms of public information activities relating to the work of the treaty bodies, the chairpersons are firmly convinced that there is a need for an integrated and comprehensive public information strategy for the Centre for Human Rights as a whole. The present approach is haphazard, under-resourced and lacking in priorities. Publicity for the work of the treaty bodies has suffered as a result. It is recommended that an expert group, from outside the secretariat, be constituted with a view to undertaking a comprehensive review of the existing information programme. It should be requested to make recommendations, taking full account of existing policy guidelines, for the development of an entirely new strategy that seeks to integrate the needs of the various sectors within the human rights programme, including the treaty bodies. Consultation with the latter should be part of the process and particular attention should be focused on the needs of the general public,

throughout the world, rather than only on those already involved in the system in Geneva, New York and Vienna.

57. At the very least, means need to be identified for the more effective conveying of information about the activities of one organ to the other principal organs within the overall system. This includes both Charter-based and treaty-based organs. As an interim measure, the participants decided that the chairperson of each committee should, immediately after each session and with the assistance of the secretariat, prepare a brief (1-3 pages) account of the significant developments that have taken place at that session and circulate it, at least to the other chairpersons, and if possible to all committee members.

58. The chairpersons note with satisfaction that the report of each State party along with the summary records of the consideration of that report by the relevant treaty body are now being made available through the United Nations information centre located in the country concerned. It considers, however, that the treaty bodies themselves, the Governments concerned, the secretariat and non-governmental organizations should all consider further ways of disseminating that information effectively at the national level.

59. In terms of specific information issues, the chairpersons commend the publication of the Manual on Reporting and request that the remaining language versions be printed as soon as possible; recommend that consideration be given to producing the Manual in loose-leaf format to facilitate regular updating; recommend that, in future, the very useful compilation of general comments, general recommendations and so on be published with an index to improve its usefulness; and recommend that future fact sheets dealing with the work of any of the treaty bodies be submitted to that body, or at least its chairperson, for review prior to being finalized.

Reservations

60. The chairpersons consider that the number, nature and scope of the reservations that have been made to the principal human rights treaties are cause for alarm. While recognizing that there is an important and legitimate role for reservations to treaties, they note that some of the reservations that have been lodged would appear to give rise to serious questions as to their compatibility with the object and purpose of the treaties in question. For this reason, and because of the extent to which such reservations have the potential to undermine the goals of the treaty system, the chairpersons believe that a number of measures are required to be taken.

61. In relation to reservations that, in the view of the relevant treaty body, give rise to significant questions in terms of their apparent incompatibility with the object and purpose of the treaty, that treaty body should consider requesting the Economic and Social Council or the General Assembly, as appropriate, to request an advisory opinion on the issue from the International Court of Justice.

62. The General Assembly is requested to consider giving a mandate to the Commission on Human Rights to authorize the preparation of an analytical study of issues of incompatibility arising out of the reservations that have been made to the principal treaties, to be undertaken by the Subcommission on Prevention of Discrimination and Protection of Minorities.

63. Each State that is considering ratification of a treaty should be urged to give the most careful consideration to any proposed reservation thereto and should do its utmost to keep the number and scope of such reservations to a minimum. Such reservations should be as specific as possible. Once a reservation has been made the State party should undertake a regular review of the continuing need for, and desirability of, all such reservations. The results of those reviews should be reflected in each report submitted by the State party to the treaty body concerned. That treaty body should always seek to address the issue of reservations in its dialogue with the State party.

64. The chairpersons believe that it is essential, if the present system relating to reservations is to function adequately, that States that are already parties to a particular treaty should give full consideration to lodging an objection on each occasion when that may be appropriate.

65. Whenever a new human rights treaty is being drafted the most careful consideration should be given to the inclusion of a provision permitting the relevant treaty body to request an advisory opinion from the International Court of Justice in relation to any reservation that it considers might be incompatible with the object and purpose of the treaty. Similarly, consideration should be given to the identification of certain provisions as being non-derogable (as in the case of the International Covenant on Civil and Political Rights) and they should also be identified as not being subject to reservations.

Succession in relation to human rights obligations

66. In view of the increasing number of new States that were previously part of States that had accepted various human rights treaty obligations, consideration should be given to the most appropriate and effective means by which the provisions of such treaties can be treated as applying, on a continuing basis, to the people within the territories concerned. In addition, the General Assembly should urge all new States to confirm formally their acceptance of any pre-existing obligations or to accede to, or ratify, all of the principal human rights treaties. They should do so as a matter of urgency, in order to assure to all persons within their jurisdiction the highest possible level of protection.

New instruments

67. As far as possible and appropriate, the supervision of new human rights treaty obligations should be entrusted to one or other of the existing treaty bodies. Similarly, careful consideration should always be given to the drafting of protocols to existing instruments in preference to entirely new

treaties, whenever appropriate. When such protocols are under preparation the relevant treaty body should be consulted prior to their final adoption.

68. In the event, however, that the drafting of new treaties cannot be avoided, the periodicity of reporting should be left open provided that a report is required at least once every five years. Similarly, new treaties should not stipulate a maximum duration for the sessions of the relevant supervisory body. They should always provide for the financing of the supervisory mechanisms from the regular budget.

69. Whenever new human rights instruments are being drafted, adequate travaux préparatoires should be undertaken along with a thorough technical review prior to the final adoption of the text.

Overdue and non-submitted reports

70. The problem of excessively overdue reports and of the failure to submit initial reports continues to give rise to concern. It is suggested that each treaty body follow the practice of the Committee on the Elimination of Racial Discrimination in listing States whose reports are overdue or who have failed to submit reports in order of the length of time involved. This practice helps to identify those States parties which are the most overdue and in respect of which a particular effort is needed to encourage the submission of the necessary reports. Treaty bodies might also consider the approach, already employed by the Committee on Economic, Social and Cultural Rights, of adopting a specific decision identifying those States parties whose reporting record is especially unsatisfactory.

71. The chairpersons recommend that each treaty body follow, as a last resort and to the extent appropriate, the practice, already adopted by some committees, of scheduling for consideration the situation in States parties that have consistently failed to report or whose reports are long overdue. They note that a persistent and long-term failure to report should not result in the State party concerned being immune from supervision while others, which had reported, were subject to careful monitoring. Even in the absence of a report, adequate information exists from other appropriate sources on the basis of which an examination, ideally in the form of a dialogue, could be undertaken.

72. It is recommended that a number of steps be explored in order to encourage timely reporting by all States parties. They include an effort to make the purpose of the reports and the nature of the supervisory process as transparent as possible to all concerned in the process, and especially to government officials; holding, at the national level, seminars and workshops on reporting; and the provision of specifically tailored advisory services, as appropriate.

Global reports

73. Consideration should be given, at least in the longer term, to the feasibility of permitting States that are parties to more than one of the treaties to prepare a single, comprehensive, global report, which would be used to satisfy its reporting obligations under each of the treaties.

Language versions of instruments

74. The chairpersons note that full and effective implementation of human rights treaty obligations, on a continuing basis, is dependent in part upon a knowledge and understanding of the relevant rights by the residents of the State concerned. For this reason, it is imperative that every effort be made to translate the text of the relevant instruments into as many local languages as possible and, in any event, into all of the major languages used in the country concerned. Each treaty body should therefore request all States parties to provide it with details of the different language versions available, those not available and plans for future translations. Wherever possible, a copy of the available translations should be provided in order to enable an appropriate collection to be built up by the United Nations.

Advisory services and technical assistance

75. The chairpersons recommend that, especially in relation to the work of the treaty bodies, a greater effort should be made to integrate and harmonize activities in the fields of public information, advisory services and national institutions. Training provided within the framework of the advisory services programme should, in so far as it concerns reporting and the work of the treaty bodies, accord priority to the organization of low-cost training workshops at the national level designed to cater for the needs of a diverse range of government officials, representatives of the various social partners, including workers and employers, and of relevant non-governmental organizations. It should not be assumed that the need for training in relation to reporting systems is confined to one or two government officials directly involved at a given moment.

76. The secretariat, in consultation with the treaty bodies, should draw up a list of priority countries whose reporting record would seem to indicate the need for advisory services to assist in the preparation of long overdue reports. A letter offering specific types of assistance should then be dispatched to the Governments concerned and the responses, if any, brought to the attention of the relevant treaty bodies. The chairpersons also recognize that it is essential for advisory services to be provided wherever possible in order to assist States to fulfil their human rights obligations.

World Conference on Human Rights

77. In relation to the work of the Preparatory Committee for the World Conference on Human Rights, the chairpersons consider that the representatives of the treaty bodies have not so far been accorded an adequate, or appropriate, opportunity to contribute to, and participate in, the discussions. In view of the central position of the treaty bodies within the overall United Nations human rights system, this situation is a matter of serious concern. Moreover, it completely contradicts the pertinent recommendation made by the last meeting of chairpersons and subsequently endorsed by the General Assembly. The chairpersons therefore recommend that, at all future meetings as well as at the Conference itself, provision should be made for the full participation of the treaty body representatives to enable advantage to be taken of their expert input. In order to achieve this objective fully, and in recognition of the fact that the treaty bodies are an integral part of the United Nations human rights system, the General Assembly should recommend that the group of chairpersons be constituted as a special advisory body to the World Conference.

78. The chairpersons are also concerned that discussions concerning the agenda for the World Conference have so inadequately reflected the priority accorded to issues relating to the treaty bodies as stated in paragraphs 1 (c) to (e) of General Assembly resolution 45/155 of 18 December 1990. It is therefore recommended that efforts be made to ensure that sustained consideration be given to those issues in the agenda. Moreover, the chairpersons recommend that a special working group be established at the World Conference to examine issues relevant to the implementation of existing human rights standards and instruments, to formulate concrete recommendations for improving the effectiveness of United Nations mechanisms aimed at promoting, encouraging and monitoring respect for human rights, and to review the progress made in the implementation of the recommendations contained herein.

79. Regional preparatory meetings for the World Conference should also involve representatives of the treaty bodies and consideration should similarly be given to working groups examining the issues described in the preceding paragraph.

80. The chairpersons recommend that consideration be given to the holding of a meeting, within the framework of the World Conference, of the persons chairing the United Nations human rights treaty bodies and those chairing (or holding an equivalent position on) each of the principal regional and other human rights organizations, including the African Commission on Human and Peoples' Rights, the European Commission on Human Rights, the European Court of Human Rights, the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, the Committee on the Application of Conventions and Recommendations of ILO and the Committee on Conventions and Recommendations of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

81. The chairpersons recommend that the General Assembly request that an updated version of the independent expert's study on possible long-term approaches to enhancing the effective operation of existing and prospective treaty bodies (A/44/668), the preparation of which was originally requested by General Assembly resolution 43/115 of 8 December 1988, be submitted to the World Conference on Human Rights.

82. The secretariat should include one or more members of the treaty bodies within the group of persons who will be reviewing the content of the "prototype" studies to be submitted to the World Conference.

Other matters

83. In view of the central importance of the principle of the indivisibility of the two sets of rights, as reflected in the preamble to each of the International Covenants, any State that has ratified only one of the International Covenants should be urged to give very careful consideration to the possibility of ratifying the other Covenant as soon as possible.

84. The chairpersons strongly reiterate the recommendation made in the report on their third session to the effect that the servicing by the secretariat of the Committee on the Elimination of Discrimination against Women should be provided from the Centre for Human Rights at Geneva. It is essential that a unified approach to servicing be put in place in order to ensure that that Committee has access to the same services and facilities as the other committees and to achieve the full and effective integration of the Committee into the overall human rights treaty regime.

85. It is recommended that at the next meeting of the chairpersons representatives of non-governmental organizations be invited to address the meeting and to submit appropriate recommendations for consideration by the meeting.

86. The chairpersons wish to emphasize the value of holding meetings of the treaty bodies outside of Geneva, New York and Vienna. They note, however, that existing financial and other requirements tend to make the cost of any such meeting prohibitive. For this reason, they request the Secretary-General to explore innovative ways and means (such as an agreed reduction in the number of languages in which interpretation is required, a limit on the volume of in-session documents to be translated, etc.) that would increase the likelihood of such meetings being organized.

87. It is recommended that, in future, all new members of the treaty bodies should be given a comprehensive background briefing on the work of the committee, and of the treaty bodies as a whole. The briefing should be undertaken by the chairperson or his or her delegate and by a senior secretariat official.

88. The chairpersons recall the proposal made by the Committee on Economic, Social and Cultural Rights, and subsequently endorsed by the Committee on the Rights of the Child, to the effect that a meeting should be held with one or two representatives each of the Human Rights Committee, the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women and the Committee on Economic, Social and Cultural Rights with a view to discussing matters of interest relating to the rights of the child, including the most appropriate approaches to the supervision of overlapping treaty obligations. That proposal has not been implemented owing to resource constraints. The chairpersons accordingly recommend that the General Assembly consider making resources available for such a meeting.

Notes

1/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 1 (A/47/1), para. 101.

2/ S/23500, p. 3.

3/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 1 (A/47/1), para. 109.

4/ Ibid., para. 101.

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Agenda item 143
THE SITUATION IN BOSNIA AND
HERZEGOVINA

SECURITY COUNCIL
Forty-seventh year

Letter dated 3 November 1992 from the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to enclose herewith a letter dated 2 November 1992 from His Excellency Dr. Ali Akbar Velayati, Minister for Foreign Affairs of the Islamic Republic of Iran, to Your Excellency, concerning the tragic situation in the Republic of Bosnia and Herzegovina (see annex).

I would appreciate if your would have this letter and its annex circulated as a document of the General Assembly, under agenda item 143, and of the Security Council.

(Signed) M. Javad ZARIF
Ambassador
Deputy Permanent Representative

ANNEX

Letter dated 2 November 1992 from the Minister for Foreign Affairs of the Islamic Republic of Iran to the Secretary-General

The continuation of catastrophe in Bosnia and Herzegovina and massacre and homelessness of thousands of Moslems and other segments of the population in that Republic have caused deep concern and sorrow for the people and Government of the Islamic Republic of Iran. The policy of "ethnic cleansing" - practised through killing and systematic destruction of Moslem-inhabited regions by the trained regular forces using heavy weaponry and even the Air Force - which has reached its climax by the establishment of death camps, has no precedent in contemporary history, except for the crimes committed by the Nazis during the Second World War. However, this catastrophe occurs at a time when fortunately the world is not witnessing a world war and when the United Nations exists as the guarantor of the rights and security of individuals and the independence, sovereignty and territorial integrity of States, as well as of international peace and security.

What is promising is the fact that the United Nations has followed the events in Bosnia and Herzegovina since the beginning. The adoption of several resolutions and the dispatch of the personal representative of the Secretary-General to Bosnia and Herzegovina are illustrations of the deep concern of the international community about the unfolding tragic events in that Republic - events which constitute the prima facie examples of violation of the principles of the Charter of the United Nations. Not only are human rights massively violated in that Republic on a daily basis, and its territorial integrity, sovereignty and political independence as a Member of the United Nations continually disregarded, but also the emerging problem of "forced migrants" poses a serious threat against peace and stability in the Balkans.

The people and Government of the Islamic Republic of Iran closely follow the measures taken by the United Nations in this regard and expect Your Excellency to employ your good offices to prepare the ground for the implementation of the relevant resolutions. Furthermore, as reflected in the letter dated 29 October 1992 from the Permanent Representative of the Contact Group of the Organization of the Islamic Conference to the President of the Security Council, it is hoped that in order to put an end to the catastrophe, the Security Council will be convened immediately to lift the arms embargo against Bosnia and Herzegovina.

The people and Government of the Islamic Republic of Iran, as in the past, continue to take humanitarian measures to help the defenceless people and are ready to offer every effort and cooperation in order to establish peace and security in the Republic of Bosnia and Herzegovina.

Ali-Akbar VELAYATI
Minister for Foreign Affairs of
the Islamic Republic of Iran

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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Situation of human rights in southern Lebanon

Note by the Secretary-General

1. By its decision 1992/264 of 20 July 1992, the Economic and Social Council took note of the report of the Commission on Human Rights, 1/ containing resolution 1992/70 of 4 March 1992 on the situation of human rights in southern Lebanon. In paragraph 5 of the resolution, the Commission requested the Secretary-General (a) to bring the resolution to the attention of the Government of Israel and to invite it to provide information concerning the extent of its implementation thereof, and (b) to report to the General Assembly at its forty-seventh session and to the Commission on Human Rights at its forty-ninth session on the results of his efforts in that regard.

2. In accordance with that request, the Secretary-General addressed a note verbale to the Minister for Foreign Affairs of the State of Israel, in which he drew the attention of the Minister for Foreign Affairs to the resolution.

3. No reply had been received at the time of the preparation of the present report.

Notes

1/ Official Records of the Economic and Social Council, 1992, Supplement No. 2 (E/1992/22).

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Agenda item 33

POLICIES OF APARTHEID OF THE GOVERNMENT OF SOUTH AFRICA

Letter dated 4 November 1992 from the Permanent Representative of South Africa to the United Nations addressed to the Secretary-General

As you are aware, the Government of South Africa has, with a view to broadening the base of the constitutional negotiations, been holding bilateral discussions with various interested parties.

Most recently, representatives of the Government and the Pan-Africanist Congress of Azania met in Gaborone, Botswana, on 23 and 24 October 1992. At the end of the meeting, the attached joint statement (see annex), the importance of which will be appreciated, was issued.

I should be grateful if this letter, and annex, could be circulated as an official document of the General Assembly under agenda item 33.

(Signed) V. R. W. STEWARD
Ambassador
Permanent Representative

ANNEX

Joint statement by the representatives of the Government of South Africa and the Pan-Africanist Congress of Azania, issued at Gabarone, Botswana, on 24 October 1992

1. The aim of the Gaborone meeting was to pave the way for fully representative negotiations and to address, among other things, ways and means to end violence in South Africa.

2. The delegations have discussed these aims under the following items with a view to reporting back respectively to the South African Government and the National Executive Council of the Pan-Africanist Congress of Azania:

2.1 A more representative forum;

2.2 Constituent Assembly/Constitution-making body;

2.3 Transitional arrangements;

2.4 Violence;

2.5 Attacks on Security Forces;

2.6 Future meetings.

3. Following substantive discussions on the above items, common ground between the parties exists on the following points:

3.1 The political conflict in our country should be resolved through peaceful negotiations;

3.2 Maximum efforts should be exerted by all parties to bring an end to violence in the country;

3.3 South Africa needs a new non-racial democratic constitution to be drawn up by a body elected on a common voters roll. The principles guiding such a body shall be decided upon by a more representative negotiating forum;

3.4 The urgent need to establish a more representative negotiating forum. This forum should be as inclusive as possible and should be managed impartially;

3.5 The negotiating forum should decide on transitional arrangements leading to the attainment of a new constitution;

3.6 Constitutionality should be maintained during the transitional period;

3.7 Peaceful negotiations and free and fair elections require a commitme all participants to adhere to peaceful political activities and to refrain from inflammatory statements;

3.8 Negotiations will continue in the near future between the two partie particularly on the subject of a more representative negotiating for

4. The discussions were cordial and were characterized by mutual understanding of each other's viewpoints. Substantial progress was in identifying common ground in respect of important elements of the negotiating process.

5. Both parties wish to express their sincere appreciation to the Gover of Botswana for its hospitality and for the facilities provided. A special word of thanks was conveyed to Dr. G. K. T. Chiepe, Minister Foreign Affairs of Botswana, who hosted and chaired the meeting.

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HUMAN RIGHTS QUESTIONS: IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS

Report of the Committee on Economic, Social and Cultural Rights

Note by the Secretary-General

At its substantive session of 1992, the Economic and Social Council considered the report of the Committee on Economic, Social and Cultural Rights on its sixth session. 1/ In its resolution 1992/11 of 20 July 1992, the Council decided to transmit the report of the Committee to the General Assembly at its forty-seventh session for consideration under the agenda item entitled "Human rights questions".

Notes

1/ Official Records of the Economic and Social Council, 1992, Supplement No. 3 (E/1992/23).